REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

RMJR GRAINS CENTER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS,
Respondent.

CTA CASE NOS. 9156, 9157, 9158, 9159 and 9160

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUL 12 2019 10:02 am

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RESOLUTION

MINDARO-GRULLA, *J.*:

For resolution is respondent's **Motion for Reconsideration**, filed on February 28, 2019, with petitioner's **Comment/Opposition**, filed on April 2, 2019, pursuant to the Resolution dated April 10, 2019.

Respondent seeks reconsideration of the Court's Decision (assailed Decision)[1] promulgated on February 8, 2019, the dispositive portion of which reads:

> "**WHEREFORE**, the instant Petitions for Review are hereby **GRANTED**. The Court hereby declares petitioner's excess rice shipments, covered by Bills of Lading Nos. ICS310029, ICS310030, ICS311032, ICS310031, and

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[1] CTA Case No. 9156, Docket, pp. 648-694.

050300766382 as having been legally imported in the Philippines. Considering that petitioner's rice shipments have already been auctioned, respondents are hereby **ORDERED TO RELEASE** to the petitioner, the proceeds of the auction sale held last January 21, 2015, which are presently held in escrow, less the applicable ordinary duties, taxes, penalties, government fees and assessments, that may be assessed over the subject importations.

SO ORDERED."[2]

In the assailed Decision, the Court granted the Petitions for Review, holding that from July 1, 2012 until July 24, 2014, there was no need for rice importers to secure import permits from the National Food Authority (NFA). The Court cited in the assailed Decision, the Resolution rendered in the case of *Jade Bros Farm and Livestock, Inc. vs. Bureau of Customs and The Commissioner of Customs*[3] (*Jade Bros* case).

Respondent moves for reconsideration of the assailed Decision on the ground that the Philippine Government was authorized to require the imposition of rice importation license from July 1, 2012 to July 24, 2014.

According to respondent, the *Jade Bros* case may have persuasive effect in this case but the same could not be given the same authority as a decision that has attained finality. Respondent alleges that the *Jade Bros* case has been elevated to the CTA *En Banc* and was still pending before it.

Respondent contends that Section 6 of Presidential Decree (PD) No. 4, as amended by Republic Act (RA) No. 8178, gives NFA the authority to require the licenses for importation of rice.

Moreover, respondent alleges that the assailed Decision suggests that the lapse of the special treatment would have the effect of impliedly repealing the pertinent legislative acts. Respondent contends that the interpretation in the assailed Decision tends to give primacy to the World Trade Organization (WTO)

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[2] CTA Case No. 9156, Docket, p. 694.
[3] CTA Case No. 8886, September 21, 2016.

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Agreement on Agriculture and gives rise to a scenario wherein any inconsistency with any provisions of the WTO Agreement could repeal a local law, rule, or regulation.

Respondent argues that the WTO treaty does not directly and automatically affect our municipal laws. Respondent contends that in case of conflict between the WTO treaty and PD No. 4, as amended by RA No. 8178, the municipal law prevails. Respondent avers that the fact that international law has been made part of the law of the land does not pertain to or imply the primacy of international law over national or municipal law in the municipal sphere.

Furthermore, respondent states that the mere expiration of the period in the WTO-GATT[4] for the special treatment accorded to the Republic of the Philippines did not render the authority to require rice import permits automatically ineffective. Neither did the implementation of the import permit requirement violate our treaty obligations to the WTO.

Respondent also argues that at the time of the importation, the authority of the NFA to require import permits and to regulate the volume of rice that is imported to the country has not been repealed by any legislation. The authority of the NFA to impose quantitative restrictions had no expiration date under RA No. 8178. Had it been the intention of Congress to tack the expiration of the NFA's authority to impose the import license requirement, it would have expressly stated so.

Lastly, respondent maintains that a positive act is required to modify or remove the authority of the NFA (and consequently, the Bureau of Customs) to require securing import permits for the importation of rice.

On the other hand, petitioner contends that the Philippines enjoyed the Special Treatment of quantitative restrictions on rice imports from the years 1995 to 2005, by virtue of the WTO Agreement, Annex 5 and that the Philippine Government requested for an extension of this special treatment for seven (7) more years or until June 30, 2012. It points out that, after June 30, 2012, the special treatment on imported rice ended and the Philippine Government can no longer impose quantitative restrictions on rice

[4] General Agreement on Tariffs and Trade.

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imports because its second request for an extension was only granted on July 24, 2014, through a Waiver Decision.

Petitioner argues that the Philippine Government's authority to implement the NFA rules and regulations on rice importation were predicated on the grant of extension from the WTO Agreement. It alleges that the Philippine Government had to make a special request for an extension of the special treatment multiple times in order for it to continue imposing quantitative restriction measures, such as securing an NFA Import Permit.

Petitioner contends that from July 1, 2012 until July 24, 2014, the Philippine Government cannot impose any quantitative import restrictions on rice imports. This makes the NFA Circular No. AO-2K13-03-003 *ultra vires* for countermanding the WTO Agreement, which became part of the law of the land.

Thus, petitioner submits that it can freely import rice without need of an NFA Import Permit and the ground used by respondent to seize and forfeit the excess rice shipment was erroneous.

Respondent's Motion for Reconsideration is bereft of merit.

It must be noted that the resolution of the CTA Third Division in CTA Case No. 8886 entitled *Jade Bros Farm and Livestock, Inc. vs. Bureau of Customs and The Commissioner of Customs*, has already been affirmed by the CTA *En Banc* in the Decision[5] dated July 4, 2018 and Resolution[6] dated April 2, 2019 in CTA EB No. 1566.

Moreover, contrary to respondent's argument, the WTO, which has already been made part of the law of the land, affects our municipal laws, specifically RA No. 8178.

In *Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III, et al.*[7], the Supreme Court said:

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[5] *The Bureau of Customs and The Commissioner of Customs vs. Jade Bros Farm and Livestock, Inc.*, CTA EB No. 1566, July 4, 2018.
[6] *The Bureau of Customs and The Commissioner of Customs vs. Jade Bros Farm and Livestock, Inc.*, CTA EB No. 1566, April 2, 2019.
[7] G.R. No. 173034, October 9, 2007.

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> "Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. The transformation method requires that an international law be transformed into a domestic law through constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.
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> Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that '[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate.' Thus, treaties and conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts."

Thus, treaties are transformed into municipal or domestic laws after undergoing the constitutional process of having the same concurred in by at least two-thirds of the members of the Senate.

In the instant case, the WTO Agreement, including the Multilateral Trade Agreements (which includes the GATT and Agreement on Agriculture) attached thereto, was concurred in by the Senate through Resolution No. 97.[8] Consequently, the said Agreements became "a part of the law of the land" or were transformed into municipal or domestic laws. Thus, the WTO Agreement, with the said Multilateral Trade Agreements, attains the same force and effect as that of any other statute, such as RA No. 8178.

As a corollary, RA No. 8178 may be considered as a reference statute to the WTO Agreement and the Multilateral Trade Agreements attached thereto.[9]

Statutes which refer to other statutes and make them applicable to the subject for legislation are called "reference

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[8] Refer to *Tañada, et al. vs. Angara, et al.*, G.R. No. 118295, May 2, 1997.

[9] *Malingas Multi-Purpose Cooperative vs. Commissioner of Customs, Bureau of Customs; and Evergreen Cereal, Inc. vs. Commissioner of Customs, Bureau of Customs,* CTA Case Nos. 9150, 9191, 9192, 9193, 9194, 9195, 9196, 9197 & 9198, June 11, 2019.

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statutes". These statutes are frequently used to avoid encumbering the statute books by unnecessary repetition, and they have frequently been recognized as an approval method of legislation, in the absence of constitutional restrictions.[10] The adoption of an earlier statute by reference makes it as much as a part of the latter act as though it had been incorporated at full length.[11]

A perusal of the provisions shows that RA No. 8178 referred to, and made applicable, the WTO Agreement (which necessarily includes the Agreement on Agriculture), to wit:

> "SEC. 3. *Definition of Terms.* - The following definitions apply to the terms used in this Act:
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> xxx xxx xxx
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> (c) 'Bound rate' refers to maximum limits on tariffs on products **committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act**.
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> (d) 'In-Quota Tariff Rate' refers to the tariff rates for minimum access volumes **committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act**.
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> (e) 'Minimum Access Volume' refers to the volume of a specific agricultural product that is allowed to be imported with a lower tariff as **committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act**."
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> xxx xxx xxx
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> "SEC. 5. Amendment. - Subparagraph (xii), paragraph (1) Section 6 of Presidential Decree No. 4 (National Grains Authority Act), as amended, is hereby further amended to read as follows:
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> xxx xxx xxx

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[10] *Cipriano P. Primicias vs. Felicisimo Ocampo, et al.*, G.R. No. L-6120, June 30, 1953.
[11] *Ibid.*

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> 'In the exercise of this power, the Council after consultation with the Office of the President shall first certify to a shortage of rice that may occur as a result of a short-fall in production, a critical demand-supply gap, a state of calamity or other verified reasons that may warrant the need for importation: **Provided, That this requirement shall not apply to the importation of rice equivalent to the Minimum Access Volume obligation of the Philippines under the WTO**. xxx.'" (*Emphases supplied*)

Furthermore, it must be noted that the general elimination of the Quantity Restrictions (QRs) on food and agricultural products into the Philippines contemplated under the GATT were adopted in RA No. 8178, under Section 4 thereof, which reads as follows:

> "SEC. 4. *Repeal.* - The following laws and all other laws or provisions of law prescribing quantitative import restrictions or granting government agencies the power to impose such restrictions on agricultural products, except rice, are hereby repealed:
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> xxx xxx xxx"

Considering the foregoing, it is clear that RA No. 8178 adopted the WTO Agreement, including the Multilateral Trade Agreements attached thereto. Relative thereto, it must be stated that the adoption of an earlier statute by reference makes it as much as a part of the latter act as though it had been incorporated at full length.[12] In addition, one of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or of two laws so that each shall be effective.[13]

Moreover, it is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "*interpretare et concordare legibus est optimus interpretandi*," or every statute must be so construed and

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[12] *Ibid.*

[13] *Valera vs. Tuason, Jr. et al.*, G.R. No. L-1276, April 30, 1948.

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harmonized with other statutes as to form a uniform system of jurisprudence.[14]

Clearly, RA No. 8178 should be read in relation to the WTO Agreement, with the said Multilateral Trade Agreements, which already forms part of Philippine laws.

In the assailed Decision, the Court found that pursuant to the WTO Agreement, while WTO member countries like the Philippines are prohibited from imposing QRs on imported products, a Special Treatment is accorded to certain countries, allowing them to impose discretionary import licensing as a matter of exception to the rule.[15]

In this regard, the Philippines, by way of exception, applied for and was allowed to enjoy Special Treatment from the years 1995 to 2005, or for ten (10) years, and a further extension of seven (7) years until June 30, 2012. In other words, the Philippines was allowed to impose discretionary import licensing until June 30, 2012. Before the expiration of the Special Treatment on June 30, 2012, the Philippines requested for another extension. However, the extension was granted only on July 24, 2014 through the Decision on Waiver Relating to Special Treatment for Rice of the Philippines, wherein the above-stated Special Treatment was extended until June 30, 2017.[16]

Thus, on the basis of the provisions of the WTO Agreement, there was no need to secure import permit from the NFA at the time petitioner imported the subject rice shipments on November 3, 2013, since the 7-year extension lapsed after June 30, 2012 and the Special Treatment was only reinstated on July 24, 2014.

Accordingly, between July 1, 2012 until July 24, 2014, when no Special Treatment for rice was in place under treaty, there was no need to secure import permits from the NFA to import rice. Since at the time of the importations on November 3, 2013, it was legal for petitioner to import rice shipments without need of import permits, there was no ground to support the seizure and forfeiture proceedings done by respondent.

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[14] *Philippine Economic Zone Authority vs. Green Asia Construction & Development Authority,* G.R. No. 188866, October 19, 2011.

[15] Citing the *Jade Bros* case.

[16] *Jade Bros* case; and *Malingas Multi-Purpose Cooperative vs. Commissioner of Customs, Bureau of Customs; and Evergreen Cereal, Inc. vs. Commissioner of Customs, Bureau of Customs,* CTA Case Nos. 9150, 9191, 9192, 9193, 9194, 9195, 9196, 9197 & 9198, June 11, 2019.

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Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Decision dated February 8, 2019.

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

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice