REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case Nos. O-434, O-436, O-440, O-441, and O-442**
- versus -	Members:
GEMMA AIDA BELARMA y TORREDA, *Accused.*	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
	Promulgated: JUN 04 2024 1:32 p.m.

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RESOLUTION

On July 28, 2014, five (5) separate Informations were filed against accused Gemma Aida Belarma y Torreda, charging her for violation of Section 3601 (*Unlawful Importation*), in relation to Sections 101 paragraph (k), 2503 and 2530 paragraph (f) of the Tariff and Customs Code of the Philippines (TCCP), as amended, the accusatory portions of which read:

CTA Crim. Case No. O-434

> That on or about March 31, 2013, in Cebu City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported to this country, did then and there willfully, unlawfully and knowingly fraudulently import or bring into the Philippines or assist in so doing contrary to law, the following merchandise, to wit: declared as "**Granite Tiles**" in Bill of

Lading No. **EGLV235300130240**, but found to contain five hundred twenty (520) bags of "**White Rice**" per 10 x 20 container van on the board vessel the vessel S/S **UNI-ACCORD**, which arrived from the Port of Vietnam, without the requisite import permit from National Food Authority (NFA), and with an approximate market value of **SIX MILLION SIX HUNDRED FIFTY SIX THOUSAND PESOS (₱6,656,000.00)**, to the damage and prejudice of the Government of the Philippines in principal duties and taxes estimated at **FOUR MILLION ONE THOUSAND FOUR HUNDRED SEVENTY FOUR (₱4,001,474.00)**.

CTA Crim. Case No. O-436

That on or about March 28, 2013, in Cebu City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported to this country, did then and there willfully, unlawfully and knowingly fraudulently import or bring into the Philippines or assist in so doing contrary to law, the following merchandise, to wit: declared as "**Wall Insulator**" in Bill of Lading No. **0353A09743**, but found to contain five hundred twenty (520) bags of "**White Rice**" per 10 x 20 container van on the board vessel the vessel S/S **CHATTANOOGA**, which arrived from the Port of Vietnam, without the requisite import permit from National Food Authority (NFA), and with an approximate market value of **THREE MILLION THREE HUNDRED TWENTY EIGHT THOUSAND PESOS (₱3,328,000.00)**, to the damage and prejudice of the Government of the Philippines in principal duties and taxes estimated at **TWO MILLION ONE HUNDRED TWENTY EIGHT THOUSAND [SEVEN HUNDRED NINETY FIVE PESOS] (₱2,128,795.00)**.

CTA Crim. Case No. O-440

That on or about March 28, 2013, in Cebu City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported to this country, did then and there willfully, unlawfully and knowingly fraudulently import and bring into the Philippines, or assist in so doing contrary to law, the following merchandise, to wit: declared as "**Granite Slab**" in Bill of Lading No. **YMLU1490169358**, on board the vessel S/S **CHATTANOOGA**, which arrived from Vietnam, but found to contain about five hundred twenty (520) bags of "**White Rice**" per 10 x 20 container van, without the requisite import permit from the National Food Authority (NFA), with an approximate market value of **SIX MILLION SIX HUNDRED FIFTY SIX THOUSAND PESOS (₱6,656,000.00)**, to the damage and prejudice of the Government of the Philippines in principal duties and taxes estimated at **THREE MILLION NINE HUNDRED NINETY NINE THOUSAND ONE HUNDRED NINETY EIGHT PESOS (₱3,999,198.00).**

CTA Crim. Case No. O-441

That on or about March 31, 2013, in Cebu City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported to this country, did then and there willfully, unlawfully and knowingly fraudulently import or bring into the Philippines or assist in so doing contrary to law, the following merchandise, to wit: declared as "**Granite Tiles**" in Bill of Lading No. **EGLV235300130177**, but found to contain about five hundred twenty (520) bags of "**White Rice**" per 10 x 20 container van, on the board vessel the vessel S/S **UNI-ACCORD**, which arrived from the Port of Vietnam, without the requisite import permit from National Food Authority (NFA), and with an approximate market value of **NINE MILLION THREE HUNDRED EIGHTEEN THOUSAND FOUR HUNDRED PESOS (₱9,318,400.00)**, to the damage and prejudice of the Government of the Philippines in principal duties and taxes estimated at **FIVE MILLION FOUR HUNDRED EIGHTY TWO THOUSAND SIX HUNDRED FORTY PESOS (₱5,482,640.00).**

CTA Crim. Case No. O-442

That on or about March 31, 2013, in Cebu City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported to this country, did then and there willfully, unlawfully and knowingly fraudulently import or bring into the Philippines or assist in so doing contrary to law, the following merchandise, to wit: declared as "**Granite Tiles**" in Bill of Lading No. **EGLV235300138771**, but found to contain five hundred twenty (520) bags of "**White Rice**" per 10 x 20 container van on the board vessel the vessel S/S **UNI-ACCORD**, which arrived from the Port of Vietnam, without the requisite import permit from National Food Authority (NFA), and with an approximate market value of **SIX MILLION SIX HUNDRED FIFTY SIX THOUSAND PESOS (₱6,656,000.00)**, to the damage and prejudice of the Government of

> the Philippines in principal duties and taxes estimated at **FIVE MILLION ONE THOUSAND FOUR HUNDRED SEVENTY FOUR PESOS (₱4,001,474.00).**

These consolidated cases must be dismissed.

Section 7(b)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, reads:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
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> ...
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> b. Jurisdiction over cases involving criminal offenses as herein provided:
>
> **1. Exclusive original jurisdiction over all criminal offenses arising from violations of the** National Internal Revenue Code or **Tariff and Customs Code** and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, **exclusive of charges and penalties**, claimed is less than One million pesos (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. ...[1]

Relatedly, Section 3(b)(1), Rule 4[2] of the Revised Rules of the Court of Tax Appeals (RRCTA)[3] clarified that the CTA in Division possesses exclusive original jurisdiction over tax criminal offenses, provided the following conditions concur: *first,* the offense charged pertain to, among others, violation of the TCCP; and *second,* the principal amount of taxes and fees claimed, *exclusive of charges and penalties* is at least ₱1,000,000.00. In turn, the jurisdiction of a court over a criminal case is determined by the allegations in the complaint

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1 Boldfacing supplied.

2 SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
...
(b) Exclusive jurisdiction over cases involving criminal offenses, to wit: | | |
(1) Original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or **Tariff and Customs Code** and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; ... Boldfacing supplied.

3 A.M. No. 05-11-07-CTA.

or information. Once it is so shown, the court may validly take cognizance of the case.[4]

Indeed, the separate Informations all dated July 28, 2014 charged accused for violation of Section 3601(Unlawful Importation), in relation to Sections 101 paragraph (k), 2503 and 2530 paragraph (f) of the TCCP, as amended. Equally stated therein are the amounts in the table below consisting of: (1) approximate market value of the alleged imported articles; and (2) principal duties and taxes:

CTA Crim. Case No.	Approximate Market Value	Principal duties and taxes
O-434	₱6,656,000.00	₱4,001,474.00
O-436	₱3,328,000.00	₱2,128,795.00
O-440	₱6,656,000.00	₱3,999,198.00
O-441	₱9,318,400.00	₱5,482,640.00
O-442	₱6,656,000.00	₱4,001,474.00

Yet, these averments hardly suffice to bestow the Court with jurisdiction over CTA Crim. Case Nos. O-434, O-436, O-440, O-441 & O-442. Ponder on these points:

First. Section 7(b)(1) of RA No. 1125, as amended by RA No. 9282, in relation to Section 3(b)(1), Rule 4 of the RRCTA commands that the customs duties and taxes must be *exclusive* of charges and penalties. No such averment is found in the separate Informations.

Second. Section 3519 of the TCCP defines taxes as follows:

> SEC. 3519. Words and Phrases Defined. - As used in this Code:
>
> ...
>
> "Taxes" includes all **taxes, fees and charges** imposed by the Bureau of Customs and the Bureau of Internal Revenue;[5]

Since the separate Informations *failed* to expressly state that the amounts of ₱4,001,474.00, ₱2,128,795.00, ₱3,999,198.00, ₱5,482,640.00,

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4 *Cabral v. Bracamonte,* G.R. No. 233174, January 23, 2019.

5 Boldfacing supplied.

and ₱4,001,474.00, pertaining to principal duties and taxes is *exclusive* of charges and penalties, the taxes referred to therein are understood as taxes, fees and charges, based on Section 3519 of the TCCP.

In sum, the allegations in the prosecution's separate Informations failed to demonstrate the Court's jurisdiction over this case. For this reason, dismissal of CTA Crim. Case Nos. O-434, O-436, O-440, O-441 and O-442 are in order.

WHEREFORE, we **RESOLVE** to:

a. **NOTE WITHOUT ACTION** the accused's Motion to Reduce Bail w/ Entry of Appearance, filed on April 29, 2024;

b. **WITHDRAW** from the archives CTA Crim. Case Nos. O-434, O-436, O-440, O-441, and O-442; and

c. **DISMISS** CTA Crim. Case Nos. O-434, O-436, O-440, O-441, and O-442 for lack of jurisdiction.

SO ORDERED.

ON OFFICIAL BUSINESS
CATHERINE T. MANAHAN
Associate Justice

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

HENRY S. ANGELES
Associate Justice