REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALFRED ALCORCON RABAGO, Owner and Proprietor of M.O. Medical Supplies,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA CASE NO. 10354

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

10:35 AM

x - x

RESOLUTION

FERRER-FLORES, J.:

For resolution is respondent's **Motion for Reconsideration** filed on June 10, 2025, with petitioner's **Comment/Opposition (re Respondent's *Motion for Reconsideration* dated 05 June 2025)** filed on August 4, 2025.

On May 16, 2025, the Court promulgated the Decision (assailed Decision) granting the instant *Petition for Review* and reversed and set aside the Decision of respondent Commissioner of Customs (COC) and the District Collector dated August 5, 2020 and May 18, 2020, respectively. The Court further recalled and lifted the Warrant of Seizure and Detention (WSD) with Seizure Identification No. 075-2020 and likewise ordered the Bureau of Customs (BOC) to release the subject seized medical goods, as enumerated in the WSD to petitioner sans the payment of penalties and taxes, the dispositive portion of which reads as follows:

> **WHEREFORE,** premises considered, the present *Petition for Review* is **GRANTED.** Accordingly, the Decisions of respondent Commissioner of Customs and the District Collected [*sic*] dated August 5, 2020 and May 18, 2020 are hereby **REVERSED** and **SET ASIDE** and the Warrant of Seizure and Detention (Seizure Identification No. 075-2020) is **RECALLED** and **LIFTED.** Moreover, respondent or the Bureau of

Customs is **ORDERED TO RELEASE the subject seized medical goods, as enumerated in the Warrant of Seizure and Detention, to petitioner sans the payment of duties and taxes.**

SO ORDERED.

Undaunted, respondent implores the Court to reconsider and set aside the assailed Decision dated May 16, 2025, deny the instant *Petition for Review*, and declare the WSD valid.

In his *Motion*, respondent maintains that the Court gravely erred in giving due course to the instant *Petition* despite petitioner's utter failure to comply with the required verification and certification against forum shopping, in violation of the 2019 Amendments in the Rules of Procedure. Respondent claims that this was already raised in his *Answer* as one of the special and affirmative defenses. The subject *Petition* should be treated as an unsigned pleading for being unverified, thus, has no legal effect and is dismissible.

Respondent further insists that Court gravely erred in ruling that petitioner sufficiently established that he purchased the subject goods locally relying, among others, on the unnotarized "affidavits" executed in 2020 by petitioner's local suppliers. Respondent points out that these "affidavits" are hearsay evidence as these were testified on only by petitioner's witness and not the affiants who signed them.

Respondent also contends that the assailed Decision unduly shifted the burden of proving that petitioner is exempt from paying duties, taxes and fees, on the respondent even when tax laws are strictly construed against the taxpayer. Respondent argues that petitioner has to show that it has complied with all the requirements as purported "reseller" of imported medical supplies.

On the other hand, in its *Comment*, petitioner posits that respondent's *Motion for Reconsideration* failed to raise any new issues and merely rehashed arguments already passed upon at length by the Court.

Moreover, petitioner claims that the assailed Decision is in accord with law, jurisprudence, and the facts of the case and should be affirmed. Petitioner counters respondent's assertion regarding its verification and certification against forum shopping asserting that it was able to cure any defect in its verification and certification against forum shopping; thus, this has been long resolved by the Court even before respondent filed his *Answer*.

Petitioner likewise reiterates the ruling of the Court in the assailed Decision holding that the forfeiture of the subject goods is improper and that it is not required to secure or keep proof of payment of duties and taxes of imported goods.

Petitioner avers that as a mere retailer/reseller of medical supplies, it is not required to keep proof of payment of duties and taxes, and does not also fall among the stated exemptions. Considering that respondent failed to prove that petitioner is the importer-of-record or consignee of the imported goods, the Decision of the District Collector and respondent have no basis and the issuance of the WSD against the subject goods is improper.

Petitioner emphasizes that the Court correctly held that there is lack of probable cause to support or warrant the issuance of the WSD as petitioner is not an importer of goods; that the goods found in its store were purchased from a local supplier; and, it is not required to keep importation documents. Petitioner highlights the lapses in the testimony of respondent's witness, Mr. Alvin Enciso, regarding the manufacturer and/or country of origin of the subject imported goods.

After due consideration, the Court finds respondent's *Motion for Reconsideration* bereft of merit.

Respondent asserts that the Court failed to address his argument regarding the lack of proper verification and certification against forum shopping of the instant *Petition for Review* and should have been dismissed outright for being unverified. On the other hand, petitioner claims that, prior to respondent's *Answer*, the defect was already cured.

Perforce, proceedings in the Court of Tax Appeals shall not be governed strictly by technical rules of evidence.[1] Considering that the proper verification and certification against forum shopping were submitted after petitioner was order by the Court to do so, the Court finds that the requirement under the 2019 Amendments to the Revised Rules of Court has been sufficiently complied with.

Respondent's contention that the judicial affidavits (JAs) of petitioner's suppliers were not notarized, thus, should not have been given probative value, was likewise aptly discussed by the Court in the assailed Decision. Respondent staunchly claims that the judicial affidavits of petitioner's suppliers are considered hearsay for not having been presented in Court, hence, should be denied admission.

[1] Section 8, Republic Act No. 1125, as amended.

It must be noted that the JAs were executed sometime April 2020, during the height of COVID-19 pandemic with extreme lockdown measures imposed by the government. Accordingly, the Court considered the JAs, albeit some were not notarized, in the determination of the instant case, in view of the dispensation of the requirement of notarization of affidavits.

The Court likewise finds no merit in respondent's arguments that the assailed Decision unduly shifted the burden of proving that petitioner is exempt from paying duties, taxes and fees. For respondent, petitioner needs to show that it has complied with all the requirements as purported "reseller" of imported medical supplies.

Petitioner, on the other hand, maintains that, in order to direct the seizure of goods, respondent has the *onus probandi* to show that the requirements under the law were met. Petitioner posits that respondent can neither even definitely state the manufacturer or country-of-origin of the said goods nor the exact number of products that were seized.

In this case, the Court had meticulously considered and weighed all the pieces of evidence presented by both parties in arriving at its findings. To reiterate, petitioner was able to establish, based on the sales invoices and/or official receipts (OR) from his local suppliers and the affidavits and the corresponding license to operate of his local suppliers, that the subject imported goods were locally purchased. As a reseller and not an importer of goods, it is, thus, not required to keep any importation documents of what was being sold in the store. Moreover, the allegations regarding the discrepancies in its purchases and sales when cross-matched by respondent's representatives were duly explained by petitioner's witness.

As found by the Court, respondent never presented evidence that would show that petitioner is indeed an importer required to keep proof of importation. It must be emphasized that such was based on testimony of petitioner's witness, who was subjected to cross-examination by respondent, and the answers of respondent's witness during the clarificatory questions propounded by the Court. Clearly, respondent had no probable cause to issue a WSD, pursuant to Section 1117 of the Customs Modernization and Tarriff Act (CMTA) in relation to Section 3.25 of Customs Administrative Order (CAO) No. 003-19 which provide:

> **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.
>
> 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.

Further, Section 1003 of the CMTA expressly provides that a person ordering imported goods from a local importer or supplier in a domestic transaction shall be exempted from the requirements imposed upon importer-of-record or consignee to keep records pertaining to the ordinary course of business and to any activity or information contained in the records. As aptly stated in the assailed Decision, one of the documents required to be kept by an importer-of-record under Section 4.5.3(a) of CAO No. 001-19 is the proof of payment of duties and taxes. Accordingly, as a reseller, it is not the obligation of petitioner to keep any proof of importation of his inventory in his store.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by the parties in their respective *Motions*, the Court finds no compelling reason to reverse or modify the conclusions reached in the assailed Decision promulgated on May 16, 2025.

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

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice