Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

First Division

UNIOIL PETROLEUM PHILIPPINES INC.,
Petitioner,

CTA Case No. 7879

Present:

-versus-

ACOSTA, ***PJ.***
BAUTISTA, and
CASANOVA,, ***JJ.***

HON. NAPOLEON MORALES, in his Capacity as COMMISSIONER OF CUSTOMS, HON. FEDERICO BULANHAGUI, in his capacity as OIC-District Collector of the Port Of Limay, Bataan, HON. FERNANDO TUASON, in his official capacity as Chief Of the Intelligence Division of the CIIS, HON. JAIRUS PAGUNTALAN, in his official capacity as Director of the CIIS, and their successors, agents, assignees, or any other person acting under their authority,
Respondents.

Promulgated:

MAR 20 2009 ; 3:00pm

x- -x

RESOLUTION

For resolution of this Court is petitioner's prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction embodied in the Petition for Review filed on March 9, 2009.

After examining the records and considering the arguments presented by both parties in their respective pleadings and corresponding evidence, the Court agrees with the respondents. It appears from the records of the case that the Court has no jurisdiction to hear the said application for the issuance of the TRO and/or Writ of Preliminary Injunction considering that petitioner did not exhaust the administrative remedies.

Pertinent to the resolution of the application for the issuance of TRO and/or Writ of Preliminary Injunction is Section 3(a)(4) of the Revised Rules of the Court of Tax Appeals (RRCTA), to wit:

> "Sec. 3. *Cases within the jurisdiction of the Court in Division.*- The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> *xxx* *xxx* *xxx*
>
> (4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
>
> *xxx* *xxx* *xxx."*

Analyzing the assailed 2nd Indorsement which is hereunder reproduced for easy reference:

"Republic of the Philippines
Department of Finance
Bureau of Customs
1018 Manila

2nd Indorsement
Feb 04 2009

> Respectfully forwarded to the OIC-District Collector, Port of Limay (Attn: Port Collector, Mariveles), for appropriate action, the within preceding Indorsement dated 30 January 2009, of Director Jairus D. Paguntalan, CIIS and OIC, IEG, relative to the herein Investigation Report of the OIC-CIIS, Port of Manila dated 28 January 2009 re: Importation of aromatic hydrocarbon by UNIOIL PETROLEUM PHILS. INC. / OILINK INTERNATIONAL CORPORATION, inviting attention to the findings of the U. P. – Natural Sciences Research Institute, Research and Analytical Services, Laboratory and the Laboratories & Scientific Services, U.S. Customs and Border Protection, Dept. of Homeland Security that the samples taken from the Storage Tank No. 6 of UNIOIL/OILINK located at Lucanin Point, Mariveles, Bataan is not an Aromatic Hydrocarbon but Petroleum Oil, thus, subject to excise tax.
>
> Your attention is likewise invited to the recommendation that a Warrant of Seizure and Detention be issued against the shipments of aromatic hydrocarbons presently stored at Storage Tanks No. 6 and 21 of UNIOIL/OILINK in Lucanin Point, Mariveles, Bataan for violation of Section 2503 and 2530 (f), (l) (3,4 & 5) of the TCCP, as amended in relation to R.A. 8424
>
> (Sgd.) NAPOLEON L. MORALES
> Commissioner"[1]

would show that said letter does not fall within the purview of the aforecited provision of the RRCTA that would confer jurisdiction on the Court of Tax Appeals over the instant application for the issuance of a TRO and/or Writ of Preliminary Injuction. The assailed 2nd Indorsement is not a decision but a mere referral letter of respondent-Commissioner of Customs to the OIC-District Collector, Port of Limay, for appropriate action, the First Indorsement (1st Indorsement) dated January 30, 2009, of Dir. Jairus D. Paguntalan, CIIS and OIC, IEG.

As indicated in the body of the 2nd Indorsement, the 1st Indorsement is about the investigation report of the OIC-CIIS, Port of Manila dated January 28, 2009, with regard to the importation of aromatic hydrocarbon by Unioil Petroleum Phils. Inc./Oilink International Corporation. Said importation was

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[1] Annex "A", Petition for Review, CTA First Division Docket.

be released under any bond when there is prima facie evidence of fraud in the importation of the article: Provided, further, That articles the importation of which is prohibited by law shall not be released under any circumstance whomsoever, Provided, finally, That nothing in this section shall be construed as relieving the owner or importer from any criminal liability which may arise from any violation of law committed in connection with the importation of the article (R.A. 7651, June 04, 1993)."

In a Supreme Court decision[2], the Highest Tribunal held that:

"It is a settled jurisprudence that the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings, and regular court cannot interfere with his exercise thereof or strifle and put it to naught."

The question of seizure and forfeiture is for the administrative authorities to determine, the Collector of Customs in the first instance and then the Commissioner of Customs. It is only after the Commissioner of Customs has decided on the seizure and forfeiture proceedings that the importer may elevate the said decision to the Court of Tax Appeals.

WHEREFORE, premises considered, the application for the issuance of TRO and/or Writ of Preliminary Injunction is hereby **DENIED**. Furthermore, considering that this Court has no jurisdiction over the instant Petition for Review, the same is hereby **DISMISSED**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

[2] Zuno vs. Cabredo, 402 SCRA 75