Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

TRULLY NATURAL FOOD CORP., Represented by its Executive Vice President/ General Manager RODOLFO C. SOBONG,
Petitioner,

-versus-

DEPARTMENT OF FINANCE,
Respondent.

CTA Case No. 8353

Members:
CASTAÑEDA,JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
MAR 25 2013
4:30 p.m.

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DECISION

CASANOVA, *J.*:

This is a Petition for Review,[1] filed by petitioner-Trully Natural Food Corporation (TNFC) dated September 30, 2011, praying for the reversal of the denial of its Motion for Reconsideration by the Department of Finance (DOF)[2] and, the lifting of the suspension of herein petitioner's accreditation and access to Automated System for Customs Data/ Automated Customs Operating System (ASYCUDA/ACOS).

Petitioner is a dried tropical fruit processing facility located at National Highway, Brgy. Glamang, Polomolok, South Cotabato. Its primary business is to process and market high quality dehydrated tropical fruits for domestic and export consumption.[3]

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[1] Docket, pp. 6-18.
[2] Annex "A" to the Petition for Review, Ibid, p. 20.
[3] Par. 1 and 2, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Id, p. 287.

On the other hand, respondent is the head of the Department of Finance, primarily responsible for the sound and efficient management of the financial resources of the Government, its subdivisions, agencies and instrumentalities; and vested with the power to review the decisions of the Commissioner of the Bureau of Customs (BOC), as provided under Section 2313 of the Tariff and Customs Code of the Philippines (TCCP).

Petitioner was registered as a corporation with the Securities and Exchange Commission (SEC)[4] and was given an Environmental Compliance Certificate No. 120312-08-179-120[5] by the Department of Environment and Natural Resources on December 11, 2003.[6] On February 6, 2004, it was registered with the Department of Trade and Industry under its former corporate name, Tem Ngun Food Corporation.[7] On March 15, 2004, a Certificate of Registration as a "New Export Producer of Processed Fruits (Dehydrated Tropical Fruits)" was issued to it by the Board of Investment under EP No. 2004-034.[8]

Hereunder are the admitted facts as stated in the parties' Joint Stipulation of Facts and Issues, *viz*:

> "6. Various shipments of printed plastic rolls were imported and entered in 2006 and 2007 by petitioner through the customs port in General Santos City.
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> 7. Petitioner requested for ten (10) days to present the Department of Finance exemption under the belief that its Manila office must have copies thereof.
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> 8. The Collector of Customs refused to sign petitioner's export documents for failure of the

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[4] Par. 3, Summary of Admitted Facts, JSFI, Id, p. 287; Exhibits "B" and "B-1".
[5] Exhibits "C"-"C-9".
[6] Par. 7, Petition for Review, Id, p. 7.
[7] Par. 4, Summary of Admitted Facts, JSFI, Id, p. 287; Exhibit "D".
[8] Par. 5, Summary of Admitted Facts, JSFI, Id, p. 288; Exhibit "E".

latter to present its Department of Finance exemption.

9. Petitioner managed to have the shipments released and liquidated from the customs warehouse in General Santos City without paying taxes and duties.

10. Petitioner submitted documents showing its alleged exemption from duties and taxes after the shipments were released from the customs warehouse.

11. Petitioner's accreditation and access to the Automated System for Customs Data/Automated Customs Operating System was suspended by the Bureau of Customs on 20 July 2007.

12. Petitioner received a demand letter dated 14 August 2007 from then Bureau of Customs Commissioner Napoleon L. Morales reiterating the collection of duties and taxes as previously demanded by then Collector of Customs Atty. Elvira Cruz on petitioner's importation of printed plastic rolls.

13. Petitioner filed an Answer to Commissioner Morales' demand letter on 7 September 2007 reiterating its exemption from customs duties and taxes.

14. The Bureau of Customs ordered the suspension of petitioner's customs import accreditation.

15. The denial by Commissioner Morales of petitioner's plea to lift the suspension of its accreditation was super-imposed on computerized statements favorable to petitioner.

16. The Department of Finance Indorsements have been ratified by then Department of Finance Undersecretary Gaudencio A. Mendoza, Jr., through an Indorsement dated 27 February 2008.

17. This case had been elevated by the Bureau of Customs to the Department of Finance by virtue of a 1st Indorsement dated 5 January 2011 signed by Atty. Rolando T. Ligon, Jr.

18. Petitioner received a 2nd Indorsement from the Department of Finance dated 31 March 2011 denying petitioner's prayer to lift the suspension of its accreditation.

19. On 19 July 2011, petitioner sought a reconsideration of said order.

20. The said motion for reconsideration was denied through a 3rd Indorsement dated 4 August 2011."[9]

Hence, petitioner filed the instant Petition for Review before this Court on September 30, 2011.

On November 4, 2011, respondent filed a Motion for Extension of Time to File Answer[10] which was granted by this Court in an Order[11] dated November 8, 2011. On December 7, 2011, respondent filed its Answer.[12]

On December 8, 2011, a Notice of Pre-Trial Conference[13] was issued by this Court requiring both parties to be present at the pre-trial

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[9] Summary of Admitted Facts, JSFI, Id, pp. 288-289.
[10] Id, pp. 86-88.
[11] Id, p. 90.
[12] Id, pp. 91-110.
[13] Id, p. 111.

on January 19, 2012 and to file with the Court and serve on the adverse party, at least three (3) days before the date of the pre-trial, their respective pre-trial brief. Respondent's Pre-Trial Brief[14] was filed on January 9, 2012. Then on January 13, 2012, respondent filed a Motion for Leave to File and Admit Amended Answer and Pre-Trial Brief[15] which was admitted by this Court in a Resolution[16] dated January 17, 2012. On the other hand, the Pre-Trial Brief of the Plaintiff[17] was filed on January 17, 2012.

In its Amended Answer[18] filed on January 13, 2012, respondent averred the following Affirmative Allegations and Defenses:

> "The DOF repleads the foregoing where relevant, and further states:
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> 36. As admitted by TNFC itself, various shipments of printed plastic rolls were imported in 2006 and 2007 by the said corporation purportedly for the packing of its products for exports. Said shipments were entered through the customs post in General Santos City.
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> 37. Upon entry of the shipments, however, TNFC failed to present documents from the DOF evidencing its exemption from duties and taxes. Curiously, TNFC was able to have the shipments released and liquidated from the customs warehouse in General Santos City without paying duties and taxes due on shipments. It was only months after the subject shipments were released when TNFC submitted proof of its alleged exemption from duties and taxes. Due to TNFC's failure to pay the duties and taxes due on the shipments, its accreditation and access to the Automated System for Customs Data/ Automated Customs Operating System was suspended by the BOC on July 20, 2007. The

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[14]Id, pp. 112-126.
[15]Id, pp. 127-164.
[16]Id, p. 166.
[17]Id, pp. 168-171.
[18] Id, pp. 130-149.

suspension of TNFC's accreditation was upheld by the then BOC Commissioner Napoleon Morales.

38. TNFC insists that it is exempt from the payment of duties and taxes on the printed plastic roll shipments as the latter are conditionally-free importations under Section 105 of the TCC, *viz*:

> 'Sec. 105. *Conditionally-Free Importations.*— The following articles shall be exempt from the payment of import duties upon compliance with the formalities prescribed in, or with, the regulations which shall be promulgated by the Commissioner of Customs, with the approval of the Secretary of Finance; Provided, That any article sold, bartered, hired or used for purposes other than that they were intended for without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the article had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Section Thirty - six hundred and two, as amended of this Code x x x.'

39. It is clear from the above provision that articles enumerated in Section 105 of the TCC may only be considered as conditionally-free importations upon 'compliance with the formalities prescribed in, or with, the regulations' promulgated by the BOC and approved by the DOF. In this case, TNFC must present the following formalities before the shipments may be entered duty-free:

> a) Documents from the DOF proving the validity and existence of TNFC's exemption from duties and taxes; and

b) Affidavit of the importer (i.e., TNFC) setting forth that the printed plastic rolls shall be exclusively used as containers of goods for exportation and stating the value thereof.

40. Having failed to present documentary proof of exemption from duties and taxes and the required affidavit as described above upon entry of the shipments, TNFC cannot avail of the benefit under Section 105 of the TCC. Hence, the subject shipments are subject to the payment of customs duties and taxes.

41. While TNFC eventually managed to submit documents allegedly evidencing its exemption from duties and taxes, such belated submission will not exonerate TNFC from its liability. Absent any explicit statutory provision (and certainly TNFC does not cite any) that belated submission of formalities constitutes substantial compliance with the requirements of Section 105 of the TCC, TNFC cannot be considered exempt from payment of duties and taxes without strictly complying with the requirements provided by law. It bears stressing that TNFC's claim is essentially one for tax exemption, which should be strictly construed against those claiming to be qualified thereto. Any doubt whether a tax exemption exist is resolved against the taxpayer.

42. In sum, TNFC is liable to pay customs duties and taxes, penalties and surcharges on the subject shipments. Accordingly, there is no basis for the filing of the suspension of TNFC's accreditation and access to the BOC's Automated System for Customs Data/ Automated Customs Operating System.

43. Finally, the Petition must be dismissed for lack of a valid certification of non-forum shopping. A perusal of the Petition as received by the DOF readily shows that it does not contain any resolution of TNFC's Board of Directors

authorizing Mr. Rodolfo C. Sobong to sign the verification and certification of non-forum shopping. Hence, the dismissal of the Petition is in order, *viz:*

> 'In Fuentebella and Rolling Hills Memorial Park, Inc. v. Castro, we likewise declared that a certification without the proper authorization is defective and constitutes a valid cause for dismissal of the petition. We explained:
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> > The reason for this is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.
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> > This requirement is intended to apply to both natural and juridical persons as Supreme Court Circular No. 28-91[25] and Section 5, Rule 7 of the Rules of Court do not make a distinction between natural and juridical persons. Where the petitioner is a corporation, the certification against forum shopping should be signed by its duly authorized director or representative... [I]f the real party-in-interest is a corporate body, an officer of the corporation can sign the certification against forum shopping as long as he is authorized by a resolution of its board of directors.
> >
> > xxx
> >
> > A Certification without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.

> This holds true in the present case... the Administrative Manager of petitioner corporation, who signed the verification and certificate of non-forum shopping, initially failed to submit a secretary's certificate or a board resolution confirming her authority to sign on behalf of co-petitioner...'

In the January 19, 2012 hearing[19], upon motion of both counsels, petitioner was allowed to file until January 29, 2012 its Motion for Reconsideration of the Resolution dated January 17, 2012 and, respondent was granted until January 29, 2012 to file her Motion to Dismiss. The parties were, likewise, granted ten (10) days from receipt of each motion to file a comment thereto. Thereafter, both motions shall be deemed submitted for resolution. Likewise, the Court held in abeyance the pre-trial of the case.

On January 24, 2012, respondent filed a Motion to Dismiss[20] on the ground that instant petition does not contain a valid certification against forum shopping. Subsequently, a Motion for Leave to File Supplemental Motion to Dismiss[21] was filed by respondent on February 1, 2012 which was granted by this Court in a Resolution[22] promulgated on February 3, 2012. A Comment and Opposition to the Motion to Dismiss with Motion to Admit Secretary's Certificate[23] was filed by petitioner on February 2, 2012 while its Comment/Opposition[24] to respondents' Supplemental Motion to Dismiss was filed on February 15, 2012.

In a Resolution[25] dated March 1, 2012, the Court granted and admitted petitioner's Motion to Admit Secretary's Certificate and, denied respondents' Motion to Dismiss and Supplemental Motion to Dismiss.

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[19] Minutes of the Hearing dated January 19, 2012, Id. P. 181.
[20] Id, pp. 184-192.
[21] Id, pp. 197-206.
[22] Id, p. 208.
[23] Id, pp. 240-245.
[24] Id, pp. 246-252.
[25] Id, pp. 259-262.

Thereafter, both parties filed their Joint Stipulation of Facts and Issues[26] on June 4, 2012 which was approved by this Court in the June 6, 2012 hearing.[27]

Trial ensued during which petitioner presented as witness[28] its licensed Custom Broker Ms. Nancy Joaquin-Santos. On June 27, 2012, Assistant Solicitor Macapagal manifested, [29] in open court that, in order to expedite the proceedings, he is willing to dispense with the presentation of petitioner's second witness, Mr. Rodolfo C. Sobong, considering that the contents and documents that are supposed to be identified by the said witness have already been covered and admitted in the Joint Stipulation of Facts and Issues.

Subsequently, petitioner filed its Formal Offer of Documentary Exhibits[30] on July 24, 2012. A Comment (Re: Formal Offer of Documentary Exhibits dated July 24, 2012) was filed by respondent on August 14, 2012.[31]

In a Resolution[32] promulgated on September 3, 2012, this Court admitted Exhibits "A" to "F-7", "H", "J", "L" to "M", "P", "Q" to "Q-1", "T" and "T-1", inclusive of their sub-markings, but denied the admission of the followings exhibits:

1. Exhibits "'G", "G-1", "G-2", "G-3", "I" to "I-2", "K" to "K-6", "N", "O", "S" and "S-1", for petitioner's failure to present the original thereof for comparison. Also, from the afore-mentioned exhibits, only Exhibit "S" and "S-1", were identified in Court; and

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[26]Id, pp. 287-291.
[27]Minutes of the Hearing dated June 6, 2012, Id, p. 292;
[28] Minutes of the Hearing dated June 6, 2012, p. 292.
[29]Minutes of the Hearing dated June 27, 2012, p. 301.
[30] Id, pp. 306-318.
[31] Id, pp. 374-384.
[32]Id, pp. 391-392.

2. Exhibit "R", for petitioner's failure to identify the same in court.

On September 26, 2012, respondent's counsel manifested in open court[33] that he has no witness to present in this case and, upon motion of the counsels for both parties, the parties were granted thirty (30) days or until October 26, 2012 to file their Memoranda.

On October 24, 2012, respondent filed its Memorandum.[34] Petitioner, on the other hand, filed a Motion for Extension of Time to File its Memorandum[35] on October 25, 2012 and a Final Motion for Extension of Time[36] on November 23, 2012. The Memorandum for the Petitioner[37] was filed on December 21, 2012.

In a Resolution[38] promulgated on December 28, 2012, the instant case was submitted for decision.

The parties' submitted the following issues for this Court's resolution:

1. Whether or not the Department of Finance failed to appreciate the fact that the imported plastic rolls are conditionally-free importations under Section 105 (m) of the Tariff and Customs Code of the Philippines (TCC);

2. Whether or not the Bureau of Customs is estopped from collecting duties and taxes after it has duly approved and liquidated the subject importations;

3. Whether or not the Bureau of Customs failed to appreciate the fact that the importations were covered

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[33]Minutes of the Hearing dated September 26, 2012, Id, p. 395.
[34]Id, pp. 396-412.
[35]Id, pp. 413-415.
[36]Id, pp. 417-419.
[37]Id, pp. 421-434.
[38]Id. P. 435.

by the 150% re-export bond to pay damages to the government that may be incurred;

4. Whether or not the suspension of petitioner's import accreditation has legal basis;

5. Whether or not the denial of petitioner's plea to lift the suspension of its accreditation was done hastily and arbitrarily; and

6. Whether or not petitioner's belated submission of documents evidencing its exemption from duties and taxes substantially complies with the requirements of conditionally- free importation under the Tariff and Customs Code, Customs Administrative Order No. 11-74 and, other pertinent rules and regulations.[39]

Since the foregoing issues are intertwined, this Court will discuss them jointly.

The specific provision of law governing conditionally-free importation is Section 105(m) of the Revised Tariff and Customs Code of the Philippines (TCCP) which is hereby quoted for easy reference, to wit:

Section 105.Conditionally –Free Importations.

"The following articles shall be exempt from the payment of import duties **upon compliance with the formalities prescribed in, or with, the regulations which shall be promulgated by the Commissioner of Customs with the approval of the Secretary of Finance;***Provided,* That any article sold, bartered, hired or used for purposes other than that they were intended for without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the article had been entered without the benefit of this section, shall be subject to forfeiture and the

[39]Issues to be Resolved, Joint Stipulation of Facts and Issues, Id, p. 290.

> importation shall constitute a fraudulent practice against customs revenue punishable under Section Thirty-six hundred and two, as amended, of this Code; *Provided, further,* That a sale pursuant to a judicial order or in liquidation of the estate of a deceased person shall not be subject to the preceding proviso, without prejudice to the payment of duties, taxes and other charges; *Provided, finally,* That the President may upon recommendation of the Secretary of Finance, suspend, disallow or completely withdraw, in whole or in part, any of the conditionally-free importation under this Section:
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> a. x xxx
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> xxxx
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> m. Containers, holders and other similar receptacles of any material including kraft paper bags for locally manufactured cement for export, including corrugated boxes for bananas, mangoes, pineapples and other fresh fruits for export, except other containers made of paper, paperboard and textile fabrics, which are of such character as to be readily identifiable and/or reusable for shipment or transportation of goods shall be delivered to the importer thereof upon identification, examination and appraisal and the giving of a bond in an amount equal to one and one-half times the ascertained duties, taxes and other charges within six (6) months from the date of acceptance of the import entry;"

Section 105 (m) of the TCC categorically states that articles shall be exempt from the payment of import duties **upon compliance with the formalities prescribed in, or with, the regulations which shall be promulgated by the Commissioner of Customs with the approval of the Secretary of Finance.** This Regulation pertains to **Customs Administrative Order No. 11-74,** amending Paragraph I of Customs Administrative Order No. 7-72 entitled *"Regulations Implementing Section 105 of the Revised Tariff and Customs Code of the Philippines, as Amended"* which is hereunder quoted, thus:

"PARAGRAPH I. The following articles shall be exempt from the payment of import duties subject to the following conditions and upon compliance with the formalities prescribed hereunder:

xxx xxx xxx

M- Containers, holders and other similar receptacles of any material including kraft paper bags for locally manufactured cement for export, except paperboard and textile fabrics, may be entered free of duty subject to the following conditions:

(1) That they are of such character as to be readily identifiable and/or re-usable for shipment or transportation of goods;

(2) That they should be identified, examined and appraised by the customs official concerned, and that a certificate of identification shall be issued therefor;

(3) Submission of affidavit of the importer setting forth that said container shall be exclusively used as containers of goods for exportation abroad, and stating the value thereof;

(4) That a bond shall be filed in an amount equal to one and one-half (1-1/2) times the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months, except in the case of the kraft paper bags for cement, from the date of acceptance of the import entry; and

xxx xxx xxx."

From the afore-quoted rulings, it is clear that **there are certain conditions which must be complied with and requirements which must be first accomplished before certain articles be considered exempt from payment of import duties and taxes** and, these are as follows: (i) that they are not made of paper, paper board, and textile fabrics; (ii) that they are of such character as to be readily identifiable and/or re-usable for shipment or transportation of goods; (iii) Certificate of Identification[40] issued by the Customs officer after examination and appraisal of the imported containers; (iv) affidavit of the importer setting forth that said container shall be exclusively used as containers of goods for exportation abroad, and stating the value thereof; and (v) a bond in an amount equal to one and one-half (1-1/2) times the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of the corresponding duties, taxes and other charges within six (6) months from the date of entry.[41] **Otherwise, the imported articles shall be subject to duty upon importation following Section 100 of the TCCP** which provides:

> "SEC. 100. *Imported Articles Subject to Duty.* All articles, when imported from any foreign country into the Philippines, shall be subject to duty upon each importation, even though previously exported from the Philippines, except as otherwise specifically provided for in this Code or in other laws."

To recall, respondent, in the instant case, insists that before the shipments may be entered free of duty, petitioner should have submitted: "(a) Documents from the DOF, proving the validity and existence of TNFC's exemption from duties and taxes; and, (b) Affidavit of the importer (i.e., TNFC) setting forth that the printed plastic rolls

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[40] The purpose of the Certificate of Identification is to prove or certify that the articles exported were the articles previously imported as listed or declared in the Certificate of Identification issued by customs upon its entry in the Philippines, cited in the book of Atty. Ferdinand Asejo Nague, C.B., Handbook on the Tariff and Customs Code of the Philippines, as Amended, and the Customs Brokers Act of 2004 (R.A. No. 9280), p. 127.

[41] Atty. Ferdinand Asejo Nague, C.B., Handbook on the Tariff and Customs Code of the Philippines, as Amended, and the Customs Brokers Act of 2004 (R.A. No. 9280), pp. 133-134.

shall be exclusively used as containers of goods for exportation and stating the value thereof."[42]

However, as can be gleaned from the foregoing implementing rules, **nowhere can it be seen that there is a need to present documents from the Department of Finance proving the validity and existence of importer's exemption from duties and taxes before the subject shipments may be considered free of duty**. Thus, there is no legal basis for respondent to require petitioner to present the same upon entry of the said articles.

After finding that there is no need to present documents from the Department of Finance proving the validity and existence of importer's exemption from duties and taxes, *We* will now ascertain whether petitioner was able to comply with all the foregoing conditions.

This Court, after a careful scrutiny of the records of this case, observed that while petitioner was able to post a bond it, nevertheless, failed to present the **certificate of identification** and **affidavit** required under the implementing rules, at the time of entry of the said shipments. Thus, petitioner's importation of the printed plastic rolls for the year 2006 and 2007 cannot be considered free from duties and taxes under Section 105 (m) of the TCCP. Thus, non-payment of import duties and taxes at the time of entry justifies the suspension by respondent of petitioner's accreditation and access to the Automated Systems for Customs Data/Automated Customs Operating Systems.

Moreover, there is no truth to petitioner's allegation that respondent's denial of petitioner's plea to lift the suspension of its accreditation was done hastily and arbitrarily since, as correctly pointed out by respondent, records would readily show that, upon receiving the Department of Finance 2nd Indorsement dated March 31, 2011 denying petitioner's prayer for the lifting of the suspension of its accreditation, petitioner was able to file its Motion for Reconsideration on July 19, 2011. Respondent, on the other hand, in issuing the 3rd Indorsement[43]

[42] Par. 14, Memorandum of Respondent, Id, p. 405.
[43] Exhibit "A".

dated August 4, 2011, took into consideration the arguments raised by petitioner in its Motion for Reconsideration. Thus, petitioner is wrong in claiming that denial of petitioner's plea to lift the suspension of its accreditation was done hastily and arbitrarily.

In the same vein, this Court cannot allow the belated submission of the afore-quoted requirements because to allow the same would encourage irresponsibility on the part of importers and at the same time, may result in collusion between the taxpayers and customs officials in defrauding the government.

Further, petitioner cannot insist on claiming that the Bureau of Customs is already estopped from collecting the duties and taxes after it has duly approved and liquidated the subject importations since "it has long been a settled rule that the government is not bound by the errors committed by its agents. Estoppel does not also lie against the government or any of its agencies arising from unauthorized or illegal acts of public officers. This is particularly true in the collection of legitimate taxes due where the collection has to be made whether or not there is error, complicity, or plain neglect on the part of the collecting agents."[44] Erroneous application and unenforcement of the law by public officials do not block subsequent correct application of the statute and that the government is never stopped by error or mistake committed by its officials.[45]

Lastly, it should be emphasized that "taxation is a destructive power which interferes with the personal and property rights of the people and takes from them a portion of their property for the support of the government. And, since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting tax exemptions are thus construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. A claim of refund or exemption from tax payments

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[44] Secretary of Finance vs. Oro Maura Shipping Lines, G.R. No. 156946, July 15, 2009; Intra-Strata Assurance Corporation and Philippine Home Assurance Corporation vs. Republic of the Philippines, G.R. No. 156571, July 9, 2008.

[45] Commissioner of Internal Revenue vs. Procter and Gamble PMC, 160 SCRA 560; Cruz, Jr. vs. Court of Appeals, 194 SCRA 145.

must be clearly shown and be based on language in the law too plain to be mistaken. Elsewise stated, taxation is the rule, exemption therefrom is the exception."[46]

WHEREFORE, premises considered, the Petition for Review is hereby **DISMISSED** for lack of merit. Accordingly, the denial of petitioner's Motion for Reconsideration and the suspension of petitioner's accreditation and access to Automated System for Customs Data/ Automated Customs Operating System (ASYCUDA/ACOS) are hereby **AFFIRMED.**

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

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

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[46]Atlas Consolidated Mining and Dev't. Corp. vs. Commissioner of Internal Revenue, G.R. No. 159471, January 26, 2011, citing the case of Paseo Realty and Development Corporation v. Court of Appeals, 483 Phil. 254, 272-273 (2004), citing Mactan Cebu International Airport Authority v. Marcos, 330 Phil. 392 (1996), citations omitted; See also Commissioner of Internal Revenue v. S.C. Johnson & Son, Inc., 368 Phil. 388 (1999).

ATTESTATION

I attest 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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice