22-000386-0048

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10953

ERS SURPLUS VENTURE, claimant, Shipment of 1x40 Container with No. TEMU743840 STC: Used Parts and Components for Replacement under Import Entry No. C-12566, covered by BL No. SITYKCD2114311 on board the vessel SITC KANTO/21165, which arrived at the Sub-port of Mindanao Container Terminal, Tagoloan, Misamis Oriental,
Petitioner,

- versus -

REPUBLIC OF THE PHILIPPINES,
Respondent.

NOTICE OF RESOLUTION

To:

ASST. SOL. GEN. GILBERT U. MEDRANO
ASSOCIATE SOLICITOR II LEANDRO MARI B. MANABAT
OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

THE COMMISSIONER OF CUSTOMS
BUREAU OF CUSTOMS
Ground Floor, OCOM Bulding
16th Street, South Harbor
Port Area, Manila

DISTRICT COLLECTOR OF CUSTOMS
Port Cagayan de Oro City
Brgy. Puntod, Cagayan de Oro City

BONIEL AND BONIEL LAW OFFICES
Door No. 3 Neri Apartment, City Health Street
Barangay 40, Nazareth, Cagayan de Oro City

GREETINGS:

You are hereby notified by these presents that on **February 17, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 18, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
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Petitioner,

-versus-

REPUBLIC OF THE PHILIPPINES,
Respondent.

CTA CASE NO. 10953

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

FEB 17 2025 2:00PM

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Partial Reconsideration (Motion),* filed by registered mail and electronic mail on November 13, 2024, without petitioner's comment, as per Records Verification dated January 8, 2025.

Respondent seeks reconsideration of the Court's Decision promulgated on October 15, 2024, the dispositive portion of which reads:

> **WHEREFORE**, the *Petition* is **PARTIALLY GRANTED**. The Order dated June 7, 2022, of the Commissioner of Customs is **MODIFIED**.

> Accordingly, respondent is ordered to **RELEASE** to petitioner the goods covered by the Certificate of Authority to Import, to wit: three (3) pieces used cabin and three (3) pieces used chassis fitted with engine; three (3) pieces used radiator cowling; three (3) pieces used front axle, three (3) pieces used rear axle and three (3) pieces used propeller; three (3) pieces used gas tank; three (3) pieces used cargo body; 26 pieces used wheel rim; three (3) pieces used exhaust pipe assy.; three (3) pieces used bumper, including the declared one (1) unit used mini excavator; five (5) units used farm tractor with 25 pieces tractor tires with rims; eight (8) pieces used bicycles; ten (10) pieces used engines; and, six (6) pieces used grass cutters, subject to the payment of assessed customs duties, taxes, and fees.
>
> **SO ORDERED.**

Respondent implores the Court to reinstate the June 7, 2022 Order of the Commissioner of Customs (COC), which directed the forfeiture of all articles found in the subject shipment due to fraud. Respondent contends that fraud need not be established by direct evidence, as it can be inferred from the attendant circumstances. Respondent adds that fraud, by its nature, cannot be easily observed or physically demonstrated but must be established through inferences drawn from the facts surrounding the transaction.

Respondent asserts that fraud was present in the importation of all the items despite the lack of direct evidence. Respondent claims that the circumstances surrounding the importation of the shipment are undisputed. For instance, ten truck tires were not declared in the import documents, and five (5) used chainsaws were imported without the required import permit from the Department of Environment and Natural Resources (DENR). Respondent claims that these facts indicate that the declared items were used to conceal the illicit importation of the truck tires and used chainsaws. Respondent emphasizes that the COC's findings, rendered in its quasi-judicial capacity, are entitled to great weight, respect, and finality when supported by substantial evidence. Respondent reiterates that the finding of fraud is backed by substantial evidence based on the circumstances surrounding the importation of the shipment.

The *Motion* is without merit.

Fraud cannot be inferred solely from circumstantial evidence or the mere non-declaration of certain items; it must be established by clear and convincing evidence.

In *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*,[1] the Supreme Court explained that fraud is an intentional act or omission that must be proven by clear and convincing evidence, with the burden of proof lying on the party alleging it, as mere mistakes or negligence do not constitute fraud:

> Generally, fraud has been defined as "the deliberate intention to cause damage or prejudice. It is voluntary execution of a wrongful act or a willful omission, knowing and intending the effects which naturally and necessarily arise from such act or omission. **For fraud to exist, it must be intentional, consisting of deception willfully and deliberately done or resorted to in order to induce another to give up some right. It is never presumed and the burden of proof to establish lies in the person making such allegation** since every person is presumed to be in good faith. To discharge this burden, **fraud must be proven by clear and convincing evidence.** Also, fraud must be alleged and proven as a fact where the following requisites must concur: (a) the fraud must be established by evidence; and (b) the evidence of fraud must be clear and convincing, and not merely preponderant. Upon failure to establish these two (2) requisites, the presumption of good faith must prevail.
>
> Section 3611(c) of the TCCP, as amended defines the term fraud as the occurrence of a "material false statement or act in connection with the transaction which was committed or omitted knowingly, voluntarily and intentionally, as established by clear and convincing evidence." Again, **such factual finding of fraud should be established based on clear, convincing, and uncontroverted evidence.**
>
> Relevant thereto, in the landmark case of *Aznar v. Court of Tax Appeals*, we explained the general concept of fraud as applied to tax cases in the following fashion:
>
>> **The fraud contemplated by law is actual and not constructive. It must be intentional fraud, consisting of deception willfully and deliberately done or resorted to in order to induce another to give up some legal right.** Negligence, whether slight or gross, is not equivalent to the fraud with intent to evade the tax contemplated by the law. It must amount to intentional wrong doing with the sole object of

[1] G.R. No. 195876, December 5, 2016 [Per J. Perez, Third Division].

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> avoiding the tax. **It necessarily follows that a mere mistake cannot be considered as fraudulent intent[.]** (Emphasis supplied; citations omitted)

In this case, the absence of direct evidence of fraudulent intent in importing the goods and the non-declaration of certain items does not substantiate respondent's claim of fraud. Jurisprudence requires fraud to be proven by clear and convincing evidence, which cannot be satisfied by mere inferences from circumstantial evidence.

Absent proof that the omission of the used truck tires — whose importation petitioner denies — and the delayed acquisition of an import permit from the DENR for the used chainsaws were done with fraudulent intent, fraud cannot be imputed to petitioner's importation. Consequently, respondent's claim for the seizure and forfeiture of the declared goods lacks legal basis.

WHEREFORE, the *Motion for Partial Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice