Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

First Division

PEOPLE OF THE PHILIPPINES, *Plaintiff,* -versus- **REYNALDO M. PAZCOGUIN, JR. and RODELITO M. BIAG,** *Accused.*	**CTA Crim. Case No. O-229** **For: Violation of Section 3602, in relation to Sections 2503 and 2530, paragraphs I (3), (4), and (5); Sections 1301, 1304 and 1206 of the TCCP, as amended**[1]

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PEOPLE OF THE PHILIPPINES, *Plaintiff,* -versus- **REYNALDO M. PAZCOGUIN, JR. and RODELITO M. BIAG,** *Accused.*	**CTA Crim. Case No. O-231** **For: Violation of Section 3602, in relation to Sections 2503 and 2530, paragraphs I (3), (4), and (5); Sections 1301, 1304 and 1206 of the TCCP, as amended**

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PEOPLE OF THE PHILIPPINES, *Plaintiff,*	**CTA Crim. Case No. O-233** **For: Violation of Section 3602, in relation to Sections 2503**

[1] As per Resolution dated November 17, 2014.

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-versus-

REYNALDO M. PAZCOGUIN, JR. and RODELITO M. BIAG,
Accused.

and 2530, paragraphs I (3), (4), and (5); Sections 1301, 1304 and 1206 of the TCCP, as amended

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

REYNALDO M. PAZCOGUIN, JR. and RODELITO M. BIAG,
Accused.

CTA Crim. Case No. O-236

For: Violation of Section 3602, in relation to Sections 2503 and 2530, paragraphs I (3), (4), and (5); Sections 1301, 1304 and 1206 of the TCCP, as amended

Members:

Del Rosario, *P.J, Chairperson,*
Uy, *and*
Mindaro-Grulla, *JJ.*

Promulgated:

JUL 13 2016 ; 9:11 AM

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DECISION

DEL ROSARIO, P.J.:

These consolidated cases are for alleged violations of the Tariff and Customs Code of the Philippines ("TCCP"), as amended.

Antecedents

Accused Reynaldo M. Pazcoguin, Jr. and Rodelito M. Biag are charged in five (5) separate Amended Informations for Violation of Section 3602,[2] in relation to Sections 2503[3] and

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[2] Sec. 3602. Various Fraudulent Practices Against Customs Revenue. — Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper or by any means of any false statement, written or verbal, or by any means of any false or fraudulent practice whatsoever, or knowingly effects any entry of goods, wares or merchandise, at

2530, paragraph I (3), (4), and (5);[4] Sections 1301,[5] 1304[6] and 1206[7] of the TCCP, as amended, which read as follows:

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less than the true weight or measures thereof or upon a classification as to quality or value, or by the payment of less than the amount legally due, or knowingly and wilfully files any false or fraudulent entry or claim for the payment of drawback or refund of duties upon the exportation of merchandise; or makes or files any affidavit, abstract, record, certificate or other document, with a view to securing the payment to himself or others of any drawback, allowance or refund of duties on the exportation of merchandise, greater than that legally due thereon, or who shall be guilty of any wilful act or omission, shall, for each offense be punished in accordance with the penalties prescribed in the preceding section.

[3] Sec. 2503. Undervaluation, Misclassification and Misdeclaration in Entry. — When the dutiable value of the imported articles shall be so declared and entered that the duties, based on the declaration of the importer on the face of the entry, would be less by ten percent (10%) than should be legally collected, or when the imported articles shall be so described and entered that the duties based on the importer's description on the face of the entry would be less by ten percent (10%) than should be legally collected based on the tariff classification, or when the dutiable weight, measurement or quantity of imported articles is found upon examination to exceed by ten percent (10%) or more than the entered weight, measurement or quantity, a surcharge shall be collected from the importer in an amount of not less than the difference between the full duty and the estimated duty based upon the declaration of the importer, nor more than twice of such difference: **Provided, That an undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement, or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a prima facie evidence of fraud penalized under Section 2530 of this Code**: Provided, further, That any misdeclared or undeclared imported articles/items found upon examination shall ipso facto be forfeited in favor of the Government to be disposed of pursuant to the provisions of this Code.

When the undervaluation, misdescription, misclassification or misdeclaration in the import entry is intentional, the importer shall be subject to the penal provision under Section 3602 of this Code. (*Boldfacing added*)

[4] Sec. 2530.Property Subject to Forfeiture Under Tariff and Customs Laws. — **Any vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture**:

xxx xxx xxx

l. Any article sought to be imported or exported:

(3) **On the strength of a false declaration or affidavit** executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article.

(4) **On the strength of a false invoice or other document** executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article.

(5) **Through any other fraudulent practice or device** by means of which such articles was entered through a customhouse to the prejudice of the government.

[5] Sec. 1301. *Persons Authorized to Make Import Entry.* – Imported articles must be entered in the customhouse at the port of entry within thirty (30) days, which shall not be extendible, from the date of discharge of the last package from the vessel or aircraft either (a) by the importer, being the holder of the bill of lading, (b) by a duly a licensed customs broker acting under authority from a holder of the bill or (c) by a person duly empowered to act as agent or attorney-in-fact for each holder: Provided, That where the entry is filed by a party other than the importer, said importer shall himself be required to declare under oath and under the penalties of falsification or perjury that the declarations and statements contained in the entry are true and correct: Provided, further, That such statements under oath shall constitute prima facie evidence of knowledge and consent of the importer of violation against applicable provisions of this Code when the importation is found to be unlawful.

[6] Sec. 1304. *Declaration of the Import Entry.* – Except in case of informal entry, no entry of imported article shall be effected until there shall have been submitted to the collector a written declaration under penalties of falsification or perjury, in such form as shall be prescribed by the Commissioner, containing statements in substance as follows:

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CTA Crim. Case No. O-229

"That on January 27, 2010 or thereabout, in Manila International Container Port (MICP), City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, doing business under the corporate name and style "Viking Haulers Inc." did then and there willfully (*sic*), deliberately, unlawfully, and criminally, import, facilitate, receive and conceal the transportation of a Container Van No. OOLU7469147, covered by Import Entry No. 14988 containing cargo generally described as motor vehicle brand new on board vessel NYX ANTARES from United States of America, approximately with declared and paid duties and taxes in the amount of ₱3,214,440.00, by means of a false or fraudulent bill of lading No. OOLU250282450, declaring that the said shipment contains new motor vehicle when in truth and in fact, after physical examination conducted by COO III Evelyn R. Rivera of Section 5 Formal Entry Division, MICP, Bureau of Customs, the said shipment was actually found to contain Lamborghini Gallardo model 2010 with total estimated correct duties and taxes in the amount of NINE MILLION FIVE HUNDRED TWENTY ONE THOUSAND NINE HUNDRED NINETEEN PESOS and 99/100 (₱9,521,919.99) the said accused did then and there willfully (*sic*), deliberately, unlawfully and criminally employ false and fraudulent practice to avoid payment of correct duties, ad valorem and value added taxes due on the motor vehicle, thereby causing damage and prejudice to the Government by way of uncollected duties and taxes due on the subject shipment in the aforesaid amount of SIX MILLION THREE HUNDRED SEVEN THOUSAND FOUR HUNDRED SEVENTY NINE PESOS and 99/100 (₱6,307,479.99).

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a. That the entry delivered to the Collector contains a full account of the value or price of said articles, including subject of the entry;
b. That the invoice and entry contain a just and faithful account of the value or price of said articles, including and specifying the value of all containers or coverings, and that nothing has been omitted, therefrom or concealed whereby the government or the Republic of the Philippines might be defrauded of any part of the duties lawfully due on the articles;
c. That, to the best of the declarant's information and belief, all the invoice and bills of lading relating to the articles are the only ones in existence relating to the importation in question and that they are in the state in which they were actually received by him;
d. That, to the best of the declarant's information and belief, the entries, invoices and bill of lading and the declaration thereon under penalties of falsification or perjury are in all respects genuine and true, and were made by the person by whom the same purpose to have been made.

[7] Sec. 1206. *Jurisdiction of Collector Over Importation of Articles.* – The Collector shall cause all articles entering the jurisdiction of his district and destined for importation through his port to be entered at the customhouse, shall cause all such articles to be appraised and classified, and shall assess and collect the duties, taxes, and other charges thereon, and shall hold possession of all imported articles upon which duties, taxes, and other charges have not been paid or secured to be paid, disposing of the same according to law.

CONTRARY TO LAW."[8]

CTA Crim. Case No. O-231

"That on March 3, 2010 or thereabout, in Manila International Container Port (MICP), City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, doing business under the corporate name and style "Viking Haulers Inc." did then and there willfully (*sic*), deliberately, unlawfully and criminally, make an entry of Container Van No. OOLU8225232, covered Import Entry No. 33828 containing cargo described as Porsche and Mercedes Benz on board vessel NYK ATLAS from United States of America, approximately with DECLARED and PAID dutiable value of ₱1,100,087.00, by means of a false or fraudulent bill of lading, declaring that the said shipment contains brand Porsche and Mercedes Benz when in truth and in fact, after physical examination conducted by COO III Evelyn R. Rivera of Section 5 Formal Entry Division, MICP, Bureau of Customs, the said shipment was actually found to contain Mercedes Benz SL63 model 2010 with total estimated correct duties and taxes in the amount of SIX MILLION AND NINETY ONE THOUSAND FIVE HUNDRED TEN PESOS and 36/100 (₱6,091,510.36) the said accused did then and there willfully, deliberately, unlawfully and criminally employ false and fraudulent practice to avoid payment of correct duties, ad valorem and value added taxes due on the motor vehicle, thereby causing damage and prejudice to the Government by way of uncollected duties and taxes due on the subject shipment in the aforesaid amount of FOUR MILLION NINE HUNDRED NINETY ONE THOUSAND AND FOUR HUNDRED TWENTY THREE PESOS AND 36/100 (₱4,991,423.36).

CONTRARY TO LAW."[9]

CTA Crim. Case No. O-232

"That on April 20, 2010 or thereabout, in Manila International Container Port (MICP), City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, doing business under the corporate name and style "Viking Haulers Inc." did then and there willfully (*sic*), deliberately, unlawfully and criminally, make an entry of Container Van No. OOLU8159980, covered by Import Entry No. 61288 containing cargo described as Brand New Motor Vehicle, Mercedes Benz on board vessel HOECHSTE from United States of America, approximately with DECLARED and PAID duties and taxes in the amount of ₱1,157,851.00, by means of a false or

[8] CTA Criminal Case No. O-229 Docket, Vol. I, pp. 399-402.
[9] CTA Criminal Case No. O-231 Docket, pp. 4-5.

fraudulent bill of lading, declaring that the said shipment contains new motor vehicle, Mercedes Benz when in truth and in fact, after physical examination conducted by COO III Evelyn R. Rivera of Section 5 Formal Entry Division, MICP, Bureau of Customs, the said shipment was actually found to contain Mercedes Benz SL65 model 2010 with total estimated correct duties and taxes in the amount of NINE MILLION ONE HUNDRED FORTY TWO THOUSAND FOUR HUNDRED NINETY FIVE PESOS and 81/100 (₱9,142,495.81) the said accused did then and there willfully (*sic*), deliberately, unlawfully and criminally employ false and fraudulent practice to avoid payment of correct duties, ad valorem and value added taxes due on the motor vehicle, thereby causing damage and prejudice to the Government by way of uncollected duties and taxes due on the subject shipment in the aforesaid amount of SEVEN MILLION NINE HUNDRED EIGHTY FOUR THOUSAND AND SIX HUNDRED FORTY FOUR PESOS and 81/100 (₱7,984,644.81).

CONTRARY TO LAW."[10]

<u>CTA Crim. Case No. O-233</u>

"That on February 17, 2010 or thereabout, in Manila International Container Port (MICP), City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, doing business under the corporate name and style "Viking Haulers Inc." did then and there willfully (*sic*), deliberately, unlawfully and criminally, make an entry of Container Van No. ECMU4689493, covered by HBL No. FRI740824, and Import Entry No. 27338 containing cargo described generally as New Motor Vehicle on board vessel CMA CGM WAGNER from Latvia, approximately with DECLARED and PAID duties and taxes in the amount of ₱932,980.30, by means of a false or fraudulent bill of lading, declaring that the said shipment contains new motor vehicles, when in truth and in fact, after physical examination conducted by COO III Evelyn R. Rivera of Section 5 Formal Entry Division, MICP, Bureau of Customs, the said shipment was actually found to contain Porsche GT3 model 2010 with total estimated correct duties and taxes in the amount of FIVE MILLION SEVEN HUNDRED TEN THOUSAND THREE HUNDRED FIFTY THREE PESOS and 74/100 (₱5,710,353.74) the said accused did then and there willfully (*sic*), deliberately, unlawfully and criminally employ false and fraudulent practice to avoid payment of correct duties, ad valorem and value added taxes due on the motor vehicle, thereby causing damage and prejudice to the Government by way of uncollected duties and taxes due on the subject shipment in the aforesaid amount of FOUR MILLION SEVEN HUNDRED

[10] CTA Criminal Case No. O-232 Docket, pp. 330-333.

SEVENTY SEVEN THOUSAND THREE HUNDRED SEVENTY THREE PESOS and 44/100 (₱4,777,373.44).

CONTRARY TO LAW."[11]

CTA Crim. Case No. O-236

"That on December 18, 2009 or thereabout, in Manila International Container Port (MICP), City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, doing business under the corporate name and style "Viking Haulers Inc." did then and there willfully (*sic*), deliberately, unlawfully and criminally, make an entry of Container Van No. OOLU777119, covered by Import Entry No. 31875 containing cargo generally described as motor vehicle on board vessel OOCL Europe from United States of America, approximately with DECLARED and PAID duties and taxes in the amount of ₱1,065,558.00, by means of a false or fraudulent bill of lading No. OOLU1020919420 declaring that the said shipment contains motor vehicles, when in truth and in fact, after physical examination conducted by COO III Evelyn R. Rivera of Section 5 Formal Entry Division, MICP, Bureau of Customs, the said shipment was actually found to contain Maserati Quattroporte model 2009 with total estimated correct duties and taxes in the amount of FOUR MILLION FIVE HUNDRED THIRTY TWO THOUSAND TWO HUNDRED THIRTY THREE PESOS and 29/100 (₱4,532,233.29) the said accused did then and there willfully (*sic*), deliberately, unlawfully and criminally employ false and fraudulent practice to avoid payment of correct duties, ad valorem and value added taxes due on the motor vehicle, thereby causing damage and prejudice to the Government by way of uncollected duties and taxes due on the subject shipment in the aforesaid amount of THREE MILLION FOUR HUNDRED SIXTY SIX THOUSAND SIX HUNDRED SEVENTY FIVE PESOS and 29/100 (₱3,466,675.29).

CONTRARY TO LAW."[12]

Upon motion of the prosecution, the five (5) cases were consolidated and jointly tried, with the Court admitting the Amended Informations.[13] During arraignment, accused Biag pleaded "Not Guilty" to the five (5) charges,[14] while to date, accused Pazcoguin remains at-large. Thus, trial ensued with respect to accused Biag only.[15] The prosecution presented four (4) witnesses, namely, Jemina Sy-Flores, Conrado Q. Dizon,

[11] CTA Criminal Case No. O-233 Docket, pp. 344-347.
[12] CTA Criminal Case No. O-236 Docket, pp. 329-332.
[13] CTA Criminal Case No. O-229 Docket Vol. I, pp.428-435.
[14] CTA Criminal Case No. O-229 Docket Vol. I, p.453.
[15] CTA Criminal Case No. O-229 Docket Vol. I, pp. 442-444.

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Jr., Benjamin P. Valic, and Evelyn R. Rivera. Thereafter, upon admission of its documentary exhibits, the prosecution rested its case.

On July 30, 2014, accused Biag filed a Motion to Dismiss by Way of Demurrer to Evidence.[16] On November 17, 2014, the Court partially granted the Demurrer to Evidence dismissing CTA Crim. Case No. O-231, but as regards accused Biag only.[17]

Thereafter, accused Biag proceeded to present evidence for his defense and presented three (3) witnesses: Carlota "Chuchay" Coronel, Benjamin Silva and accused Biag himself. Upon admission of his documentary exhibits, accused Biag rested his case.[18]

On June 22, 2015, the Court ordered both parties to submit their simultaneous memoranda within thirty (30) days from notice.[19] On July 28, 2015, the prosecution filed its memorandum,[20] while the accused filed his memorandum on August 3, 2015.[21]

On August 12, 2015, the consolidated cases were deemed submitted for decision.[22]

Hence, this decision.

Evidence for the Prosecution

The evidence adduced by the prosecution tends to show that between December 2009 to May 2010, Viking Hauler's Inc. ("Viking") made ten (10) importations of luxury motor vehicles through the Manila International Container Port ("MICP").[23] Four (4) of the said importations of luxury motor vehicles, covered by Import Entry Nos. 14988,[24] 61288,[25] 27338,[26] and 31875[27], are

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[16] CTA Criminal Case No. O-229 Docket, Vol. II, pp. 847-864.
[17] CTA Criminal Case No. O-229 Docket, Vol. II, pp. 887-904.
[18] CTA Criminal Case No. O-229 Docket, Vol. II, pp. 1005-1006.
[19] *Id.*
[20] CTA Criminal Case No. O-229 Docket, Vol. II, pp. 1007-1026.
[21] CTA Criminal Case No. O-229 Docket, Vol. II, pp. 1027-1034.
[22] CTA Criminal Case No. O-229 Docket, Vol. II, p. 1037.
[23] Exhibit C-1, CTA Criminal Case No. O-229 Docket, Vol. I, p. 515.
[24] Exhibit "L", CTA Criminal Case No. O-229 Docket Vol. I, p.540, for CTA Criminal Case No. O-229, Lamborghini Gallardo model 2010, January 27, 2010 shipment.
[25] Exhibit "F", CTA Criminal Case No. O-229 Docket Vol. I, p.535, for CTA Criminal Case No. O-232, Mercedes Benz SL65 model 2010, April 20, 2010 shipment.

the subject of these consolidated cases. The four (4) luxury motor vehicles were exported to the Philippines by Unitrade International, Inc. ("Exporter"), which was based in Inglewood, California, U.S.A.[28]

To facilitate the documents of the imported motor vehicles, a certain Ana Beloria, alleged forwarder of Viking, approached Customs Broker Benjamin P. Valic to sign the import entries and to process with the Bureau of Customs ("BOC") the subject importations. Customs Broker Valic presented the originals of the commercial invoice, packing list, and certifications issued by the Exporter to the BOC.[29] In the import entry, a lower customs valuation was declared allegedly due to the damaged computer boxes and engine leaks of the subject motor vehicles.[30]

In assessing the transaction value and computing the taxes and duties due from the subject motor vehicle importations, Customs Examiner Evelyn R. Rivera used as basis the import documents which were neither consularized nor authenticated by the Philippine Consular Office in California, U.S.A. Customs Examiner Rivera likewise conducted a physical examination of the subject motor vehicles, together with technicians provided by Viking, to verify the declaration made in the import entry. Thereafter, the assessment of Customs Examiner Rivera was reviewed and processed by the Office of the Commissioner of Customs through the Value Reference Information System ("VRIS-OCOM").[31] Upon approval by the Office of the Commissioner of Customs, the subject motor vehicles were released from the customs territory.

In a Memorandum dated July 28, 2010, Gregorio B. Chavez, Deputy Commissioner of Customs for Revenue Collection and Monitoring Group and the Run After the Smugglers Program ("RATS"), requested for the computation of duties and taxes of the various vehicles imported by Viking.[32] Deputy Commissioner Chavez used prices found on the

[26] Exhibit "H", CTA Criminal Case No. O-229 Docket Vol. I, p.537, for CTA Criminal Case No. O-233, Porsche GT3 model 2010, February 17, 2010 shipment.
[27] Exhibit "N", CTA Criminal Case No. O-229 Docket Vol. I, p.542, for CTA Criminal Case No. O-236, Maserati Quattroporte model 2009, December 18, 2009 shipment.
[28] TSN dated March 26, 2014, CTA Criminal Case No. O-229 Vol. III, pp. 7-46.
[29] TSN dated March 26, 2014, CTA Criminal Case No. O-229 Vol. III, pp. 7-46.
[30] TSN dated September 18, 2013, CTA Criminal Case No. O-229 Vol. II, pp. 6-66.
[31] TSN dated September 18, 2013, CTA Criminal Case No. O-229 Vol. II, pp. 6-66.
[32] Exhibit "P", CTA Criminal Case No. O-229 Docket Vol. I, p. 547.

internet as the reference value of the subject motor vehicles for purposes of re-computing the correct taxes and duties due.[33]

On September 6, 2010, Customs Operation Officer III Conrado Q. Dizon, Jr. reported to Deputy Commissioner Chavez the computation of taxes and duties due on the subject motor vehicles based on the internet or reference values, as follows:[34]

Certificate of Payment (CP) Number	**Consignee**	**Description**	**Duties and Taxes**	
			As per C.P.	**As recomputed**
13338543[35]	Viking Haulers, Inc.	Lamborghini Gallardo Coupe	₱3,214,440.00	₱9,521,919.89
13519317[36]	Viking Haulers, Inc.	Mercedes Benz SL65	₱1,157,851.00	₱9,142,195.81
13330362[37]	Viking Haulers, Inc.	Maserati Quattroporte	₱1,065,558.00	₱5,194,926.00
13340214[38]	Viking Haulers, Inc.	Porsche GT3 Coupe	₱932,980.30	₱5,710,353.74

From the said report, the BOC, through the RATS program, initiated a case on the apparent under-declaration of values and under-payment of taxes and duties of the subject importations. Atty. Jeminah Sy-Flores, Attorney III and RATS investigator, filed the subject criminal cases upon the authority of the Commissioner of Customs.[39]

The four (4) luxury motor vehicles were found by the BOC to have been deliberately and grossly undervalued by the incorporators of Viking, in connivance with some of the BOC's examiners and appraisers by as low as 50% to a high of 80%, greatly reducing the corresponding *ad valorem* and value-added taxes ("VAT") due on the motor vehicles. The prosecution avers that the under-valuation exceeds 30%, constituting a *prima facie* evidence of fraud under Section 2530[40] of the TCCP, as amended.

Accordingly, the BOC charged before the Department of Justice accused Biag, whose name appears as an incorporator,

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[33] TSN dated February 5, 2015, CTA Crim. Case No. 229, Vol. III, pp.1-41.
[34] Exhibit "Q", CTA Criminal Case No. O-229 Docket Vol. I, p. 550.
[35] Exhibit "M", CTA Criminal Case No. O-229 Docket Vol. I, p.541.
[36] Exhibit "G", CTA Criminal Case No. O-229 Docket Vol. I, p.536.
[37] Exhibit "O", CTA Criminal Case No. O-229 Docket Vol. I, p.539.
[38] Exhibit "I", CTA Criminal Case No. O-229 Docket Vol. II, p.624.
[39] Exhibit "A", CTA Criminal Case No. O-229 Docket Vol. I, p.502-504.
[40] Should be Sec. 2503.

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director and stockholder in Viking's Articles of Incorporation[41] and also in the Articles of Incorporation of Envirokings, Corp. (formerly Viking Haulers, Inc.).[42]

Evidence for Accused Biag

Accused Biag denies any and all connection with Viking. According to accused Biag, Viking is the business of his brother-in-law, Reynaldo "Nilo" Pazcoguin III ("Pazcoguin III"), the husband of his sister, Edwina Biag-Pazcoguin, and the son of his co-accused Reynaldo Pazcoguin, Jr. He claims that he only signed the incorporation documents of Viking given the trust between their families since it was their family practice to name their relatives as incorporators of their businesses. While he is a named incorporator of Viking, accused Biag denies involvement in the operational management of its business. He adds that he is not a stockholder who invested in and received money from Viking.[43]

According to defense witness Carlota "Chuchay" Coronel, personal secretary of Pazcoguin III in his office at Auto Trend, Inc., she was the one who assisted and had the incorporators sign the subject Articles of Incorporation of Viking and later on submitted the same to the Securities and Exchange Commission ("SEC"); that accused Biag merely signed the incorporation documents; and to her knowledge, accused Biag was not engaged in the operation of Viking.[44]

Lastly, defense witness Benjamin Silva, Jr., Operations Supervisor of Viking (now Envirokings, Inc.), corroborated the foregoing testimony that accused Biag is not part of the operation of Viking; that he only knew accused Biag as a relative of Pazcoguin III; that Pazcoguin III is the true owner of Viking and he never saw accused Biag in the premises of Viking's office; that Viking is in the business of hauling garbage from various local government units; and, that Pazcoguin III, with some of his friends, is likewise engaged in a separate

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[41] Exhibit "E", CTA Criminal Case No. O-229 Docket Vol. I, pp.552-568.
[42] Exhibit "8", CTA Criminal Case No. O-229 Docket Vol. I, pp.579-589.
[43] TSN dated March 25, 2015, CTA Criminal Case No. O-229 Vol. III, pp.3-53; Judicial Affidavit dated March 19, 2015, Exhibit "10", CTA Criminal Case No. O-229 Vol. II, pp. 934-937.
[44] TSN dated February 18, 2015, CTA Criminal Case No. O-229 Vol. III, pp.5-28; Judicial Affidavit dated February 10, 2015, Exhibit "9", CTA Criminal Case No. O-229 Vol. II, pp. 910-911.

business of importing luxury motor vehicles under the name of Auto Trend, Inc.[45]

Issues

As raised in the parties' memoranda, the pivotal issues involved in the present controversy revolve on --

I

Whether the BOC validly re-computed the dutiable value of the subject luxury motor vehicles

II

Whether the subject luxury motor vehicles were imported into the country through false or fraudulent means

III

Whether accused Rodelito Manalang Biag may be held criminally and civilly liable for the crime of Fraudulent Practices against Customs Revenue, as defined and penalized under Section 3602, in relation to Sections 2503 and 2530, par. I (3), (4), & (5); Sections 1301, 1304 and 1206 of the TCCP, as amended

IV

Whether the subject imported luxury motor vehicles may be forfeited in favor of the government

Ruling of the Court

Section 3602 of the Tariff and Customs Code, as amended, enumerates the various fraudulent practices against customs revenue, such as: the **entry of imported or exported articles by means of any false or fraudulent invoice, statement or practice**; the entry of goods at less than the true weight or measure; or the filing of any false or fraudulent entry for the payment of drawback or refund of duties.[46] It particularly deals with the making or attempting to make a fraudulent entry

[45] TSN dated April 15, 2015, CTA Criminal Case No. O-229 Vol. III, pp.4-17; Judicial Affidavit dated April 6, 2015, Exhibit "11", CTA Criminal Case No. O-229 Vol. II, pp. 970-971.
[46] Erwin C. Remigio v. Sandiganbayan, G.R. No. 145422-23, January 18, 2002 *citing* Rodriguez v. Court of Appeals, 248 SCRA 288 [1995].

of imported or exported articles -- with the term "entry" in customs law having a triple meaning, namely: (1) the documents filed at the customs house; (2) the submission and acceptance of the documents; and (3) the procedure of passing goods through the customs house. For violation of Section 3602, what must be proved is the act of making or attempting to make such entry of articles.[47]

Corollary thereto, Section 2503 of the TCCP, as amended, provides that "an undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement, or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a *prima facie* evidence of fraud penalized under Section 2530 of this Code." Section 2530 paragraphs I (3), (4), and (5) of the TCCP, as amended, on the other hand, provide for the forfeiture of the afore-stated properties smuggled into the country.

The misdeclaration/misclassification contemplated by Section 2503 of the TCCP, as amended, pertains to the entries made in the Import Entry and Revenue Declaration (IERD). As the assessment of payable duties and taxes is based on the declarations made in the entry, the entry should contain the correct and accurate declaration of items being entered in the Philippine taxing jurisdiction.[48]

On the other hand, Sections 1301, 1304, and 1206 of the TCCP, as amended, are provisions governing and specifying the persons authorized to make an import entry, the declarations in an import entry, and the jurisdiction of the collector of customs, respectively.

In order to warrant a conviction for a criminal offense, the settled rule is that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense.[49] Thus, for the prosecution to establish the guilt of the accused Biag beyond reasonable doubt for the crime of Fraudulent Practices Against Customs Revenues, as charged, the following elements must be proved:

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[47] Bureau of Customs v. The Honorable Agnes VST Devanadera, et al., G.R. No. 193253, September 8, 2015.
[48] Kutangbato Conventional Trading Multi-Purpose Coop. v. Secretary of the Department of Finance, CTA Case No. 7028, August 6, 2008.
[49] People of the Philippines v. Efren Besmonte, G.R. No. 103306. April 5, 1993.

1. Viking is the importer of the subject motor vehicles;
2. Any entry covering the subject imported motor vehicles was done through false or fraudulent means; *and*,
3. Accused Rodelito M. Biag is a responsible officer of Viking in its importation of the subject imported motor vehicles.

First Element: Viking imported the subject motor vehicles.

As regards the first element, it is undisputed that Viking is the importer of the subject motor vehicles. In fact, the parties jointly stipulated that Viking is the named consignee/importer of the Lamborghini Gallardo model 2010; Mercedes Benz SL65 model 2010; Porsche GT3 model 2010; *and*, Maserati Quattroporte model 2009.[50] Additionally, their corresponding IERDs[51] and Land Transportation Office (LTO) Certificates of Payment also indicate Viking as their importer/consignee.

Likewise, the dates of entry of the subject motor vehicles are undisputed to be as indicated in aforesaid LTO Certificates of Payment:

Motor Vehicle	Certificate of Payment (CP) Number	Date of Entry
Lamborghini Gallardo model 2010	13338543[52]	January 27, 2010
Mercedes Benz SL65 model 2010	13519317[53]	April 20, 2010
Porsche GT3 model 2010	13340214[54]	February 17, 2010
Maserati Quattroporte model 2009	13330362[55]	December 18, 2009

[50] Joint Stipulation of Facts and Issues, CTA Criminal Case No. O-229, Vol. II, p. 632.
[51] Exhibit F, CTA Criminal Case No. O-229, Vol. I, p. 535; Exhibit H, CTA Criminal Case No. O-229, Vol. I, p. 537; Exhibit J, CTA Criminal Case No. O-229, Vol. I, p. 538; Exhibit L, CTA Criminal Case No. O-229, Vol. I, p. 540; Exhibit N, CTA Criminal Case No. O-229, Vol. I, p. 542.
[52] Exhibit "M", CTA Criminal Case No. O-229 Docket Vol. I, p.541.
[53] Exhibit "G", CTA Criminal Case No. O-229 Docket Vol. I, p.536.
[54] Exhibit "I", CTA Criminal Case No. O-229 Docket Vol. II, p.624.
[55] Exhibit "O", CTA Criminal Case No. O-229 Docket Vol. I, p.539.

Second Element: Viking imported the subject motor vehicles through false or fraudulent means.

a) The BOC has jurisdiction over imported articles until full payment of the duties, taxes, fees and other charges.

As to the second element, the prosecution contends that Viking undervalued the subject motor vehicles by means of false or fraudulent bills of lading and import entries, claiming that the subject motor vehicles were defective with broken computer boxes and engine leaks to justify the lower declared valuation; and that Viking unlawfully avoided payment of correct duties and taxes due on the said motor vehicles by not submitting the proper sales invoices from the supplier, which should be consularized or authenticated by the Philippine Consulate in California, U.S.A. to reflect the actual transaction value of their shipments.

Under the TCCP, as amended, importation begins when the vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. Importation is deemed terminated upon payment of duties, taxes and other charges due upon the articles, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.[56] Thus, as long as the importation has not been terminated, the imported goods remain under the jurisdiction of the BOC. Importation is deemed terminated only upon the payment of the duties, taxes and other charges upon the articles, or secured to be paid, at the port of entry and the legal permit for withdrawal shall have been granted. The payment of the duties, taxes, fees and other charges must be in full.[57] Otherwise stated, the BOC continues to have jurisdiction over the subject imported motor vehicles even though these vehicles were already released from the customs territory as long as the correct and full payment of duties and taxes have not been made.

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[56] Section 1202, TCCP, as amended.
[57] Hon. Ricardo G. Papa, et al. v. Remedios Magno and Hilarion U. Jaurencio, G.R. No. L-27360, February 28, 1968.

Further, pursuant to Section 1206 of the TCCP, as amended, the BOC is authorized to order the re-computation of the taxes and duties due from the importations of motor vehicles, *viz.*:

> Section 1206. Jurisdiction of the Collector Over Importation of Articles. – The Collector shall cause all articles entering the jurisdiction of his district and destined for importation through his port to be entered at the customhouse, shall cause all such articles to be appraised and classified, and shall assess and collect the duties, taxes, and other charges thereon, and **shall hold possession of all imported articles upon which duties, taxes, and other charges have not been paid or secured to be paid** disposing of the same according to law. *(Boldfacing supplied)*

Undeniably, the BOC has the authority to order the re-computation of the taxes and duties due from the importation of the subject motor vehicles.

b) The TCCP, as amended by R.A. No. 9135, and CAO No. 004-04 must be followed in the determination of the dutiable value of imported articles.

In re-computing the taxes and duties due from the subject imported vehicles, Deputy Commissioner Chavez lifted from the corporate websites of the car manufacturers the listed prices of brand new motor vehicles of the same make and model, which in turn, was subsequently used by Customs Operations Officer Dizon, Jr. as the dutiable value, in coming up with his own computation of taxes and duties due.[58]

The question is whether the re-computation (which led the RATS to conclude that the importations were undervalued) was validly done pursuant to the provisions of R.A. No. 9135 and CAO No. 004-04. This Court answers in the negative.

[58] TSN dated February 5, 2015, CTA Crim. Case No. 229, Vol. III, pp.1-41.

Section 201 of the TCCP, as amended by Republic Act No. 9135,[59] provides for six (6) methods in determining the dutiable value of an imported article subject to *ad valorem* rate of duty, *viz.*:

> "SEC. 201. Basis of Dutiable Value. - (A) **Method One. – Transaction Value**. -
>
> xxx xxx xxx
>
> (B) **Method Two. – Transaction Value of Identical Goods**. – xxx xxx xxx
>
> (C) **Method Three. – Transaction Value of Similar Goods**. – xxx xxx xxx
>
> (D) **Method Four. – Deductive Value**. –
>
> xxx xxx xxx
>
> (E) **Method Five. – Computed Value**. –
>
> xxx xxx xxx
>
> (F) **Method Six. – Fallback Value**. –
> xxx xxx xxx
>
> Nothing in this Section shall be construed as restricting or calling into question the **right of the Collector of Customs to satisfy himself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes**. When a declaration has been presented and where the customs administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the customs administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Subsection (A) hereof.
>
> If, after receiving further information, or in the absence of a response, the customs administration still has reasonable doubts about the truth or accuracy of the declared value, it may, without prejudice to an importer's right to appeal pursuant to Article 11 of the World Trade Organization Agreement on customs valuation, be deemed that the customs value of the imported goods cannot be determined under Method One. Before taking a final decision, **the Collector of Customs shall communicate to the importer, in writing if requested, his grounds for doubting the truth or accuracy of the particulars or**

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[59] An Act Amending Certain Provisions of Presidential Decree No. 1464, Otherwise Known as the Tariff and Customs Code of the Philippines, as Amended, and for Other Purposes.

> **documents produced and give the importer a reasonable opportunity to respond.** When a final decision is made, the customs administration shall communicate to the importer in writing its decision and the grounds therefor." (*Boldfacing supplied*)

Section II of Customs Administrative Order ("CAO") No. 004-04, dated November 8, 2004, mandates that the **methods given by R.A. No. 9135 shall be applied sequentially**, to wit:

> "**SECTION II. Dutiable Value.** —
>
> **A. General**
>
> The dutiable value of imported goods shall be determined using one of the six methods of valuation listed below, to be **applied sequentially in the order provided by law.**
>
> **B. Method — The Transaction Value**
>
> 1. The dutiable value for an imported article shall be the Transaction Value which is the price actually paid or payable for the goods when sold for export to the Philippines adjusted in accordance with the provisions of Section II.B.3 of this Order, and subject to the conditions specified in Section II.B.2 herein.
>
> xxx xxx xxx
>
> **C. Method 2 — The Transaction Value for Identical Goods**
>
> 1. If the dutiable value of imported goods cannot be determined under the provisions of Section II.B of this Order, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. The sale involving such identical goods must also be at the same commercial level and in substantially the same quantity as the goods being valued.
>
> xxx xxx xxx
>
> **D. Method 3 — The Transaction Value of Similar Goods**
>
> 1. If the dutiable value of imported goods cannot be determined under the preceding methods, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. The sale involving such similar goods must also be at the same commercial level

and in substantially the same quantity as the goods being valued.

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E. Method 4 — The Deductive Value

1. By this method, the dutiable value is determined on the basis of sales in the Philippines of the goods being valued or of identical or similar imported goods, less certain specified expenses resulting from the importation and sale of the goods.

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F. Method 5 — The Computed Value

1. Under this method, the dutiable value is determined on the basis of the cost of production of the goods being valued, plus an amount for profit and general expenses usually reflected in sales from the country of exportation to the Philippines of goods of the same class or kind.

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G. Method 6 — The Fallback Value

When the dutiable value cannot be determined under any of the previous methods of valuation, it shall be determined by using other reasonable means consistent with the principles and general provisions of GATT 1994, the agreement on the implementation of Article VII of the General Agreement on Tariffs and Trade as contained in the Uruguay Round Final Act, and on the basis of data available in the Philippines.

If the importer so requests, he shall be informed in writing of the dutiable value determined under Method Six and method used to determine such value.

No dutiable shall be determined under Method Six on the basis of:

1. The selling price in the Philippines of goods produced in the Philippines;
2. A system that provides for the acceptance for customs purposes of the higher of two alternative values;
3. The price of goods in the domestic market of the country of exportation;
4. The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with Method Five hereof;

5. The price of goods for export to a country other than the Philippines;
6. Minimum customs values; or
7. Arbitrary or fictitious values.

H. Inability to accept or doubts as to the transaction value documents submitted by the importer at the time entry is filed/processed.

1. This section shall apply to import releasing procedures including tentative release under sufficient guarantee.

2. Whenever the Bureau is unable to accept the transaction value or it has reason to doubt the truth or accuracy of the particulars or of documents produced in support of the import declaration, it should notify and give the importer the opportunity to provide further explanation. **The Bureau shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond.**

3. If, after receiving further information, or in the absence of a response from the importer, the Bureau still has reasonable doubts about the truth or accuracy of the declared value, then it is deemed that the customs value of imported goods cannot be determined under Method One. **The Bureau shall then proceed to determine the dutiable value under alternative methods sequentially and in the order of succession as provided by law**.

4. Upon written request, the **importer shall have the right to an explanation in writing from the Bureau as to how the customs value of the importer's goods was determined**. When a final decision is made, the Bureau shall communicate to the importer in writing its decision and the grounds therefor.

5. The above procedure is without prejudice to an importer's right to appeal pursuant to Article 11 of the WTO Agreement on Customs Valuation." (*Boldfacing added*)

In other words, six (6) methods are available for the BOC to determine the dutiable value of imported articles. **First** is the Transaction Value which is based on the price actually paid by the importer for the goods when sold for export to the Philippines. **Second and third** are the Transaction Value of Identical Goods and of Similar Goods, the former relates to the transaction value of goods which are the same with the imported articles in question and the latter relates to the transaction value of goods performing the same function and are commercially interchangeable with the imported articles in

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question. **Fourth** is the Deductive Value which is the unit price of imported goods or identical or similar imported goods subject to certain deductions. **Fifth** is the Computed Value or the sum of certain amounts. **Last** is the Fallback Value which pertains to other reasonable means based on data available in the Philippines.

At once apparent is the failure of the BOC to observe the manner by which these methods are to be utilized, resulting in a fatally flawed computation of the dutiable value.

To begin with, the internet-sourced valuations made by Deputy Commissioner Chavez are the reference value proscribed by CAO 004-04, *viz.*:

> "SECTION III. Administrative Provisions. —
>
> A. Reference Value as Risk Management Tool
>
> **<u>Published or established customs value, or any other value reference from whatever source, cannot be used as substitute value for customs valuation</u>**. However, such value information may be used as a **risk management tool** to establish doubt or to alert customs to do a value verification check either upfront thru a system created for the purpose or on a post-entry basis through the Post Entry Audit infrastructure." (*Boldfacing added*)

The internet/reference value used by the BOC during its case build-up and eventually accepted by the prosecution during the preliminary investigation is a prohibited source in determining the dutiable value. Truth be told, even Method Six – Fallback Value, arguably the least demanding of the methods in determining the dutiable value, expressly prohibits the use of such arbitrarily acquired values as basis for the dutiable value. As provided in CAO No. 004-04, the foregoing reference values may be used only as a <u>Risk Management Tool</u> - - as a means for the BOC to be alerted of possible undervaluation of imported articles and for its officials to exercise heightened vigilance in assessing, examining, and processing the importation of the subject articles. It is not one of the accepted modes of determining the dutiable value of imported articles.

Even granting *arguendo* that the internet-sourced valuation made by Deputy Commissioner Chavez and solely relied upon by Customs Operation Officer Dizon, Jr. to re-compute the correct customs taxes and duties due from the subject motor vehicles is acceptable under Method Six – Fallback Value, the Court finds that the prosecution still failed to establish that the conditions before resorting to Method Six have been met by the BOC. A careful reading of R.A. No. 9135 reveals that Method One – Transaction Value is the primary mode that should be relied upon in computing the dutiable value of imported articles. It is only when the BOC is unable to accept the transaction value or has reason to doubt the truth or accuracy of the particulars or of the documents produced in support of the import declaration, that it may resort to the five methods enumerated exclusively and sequentially applied.

Before even resorting to the succeeding methods of valuation, it is imperative for the BOC to first notify and give the importer the opportunity to provide further explanation as to the declared valuation of the subject imported articles. In the absence of a response or when despite the explanation given by the importers, the BOC still has reasonable doubts about the truth or accuracy of the declared value and has deemed that the customs value of imported goods cannot be determined under Method One, then the dutiable value shall be determined under the alternative methods, in the order of succession as provided by law.[60]

In this case, while the prosecution contended that Viking failed to submit consularized or authenticated sales invoice of the subject imported motor vehicles, there is no showing that the BOC ever requested or required the importer to submit the same. Worse, the method employed by Deputy Commissioner Chavez actually cut short the entire process by using directly Method Six without applying Methods Two to Five.

The procedural lapse afore-discussed clearly highlights the BOC's failure to comply with R.A. No. 9135 and even its own rules and regulations under CAO No. 004-04. The re-computation of the customs taxes and duties ostensibly due from Viking made under the authority of Deputy Commissioner Chavez was highly irregular, contrary to law, and in violation of the importer's right to due process.

Considering the BOC's actuations, doubt exists as regards the alleged undervaluation of the subject motor vehicles.

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[60] Section II (H) (3), Section II of Customs Administrative Order ("CAO") No. 004-04, dated November 8, 2004.

Notwithstanding the foregoing, the Court notes that the four (4) Informations allege that the subject imported motor vehicles were all declared 'Brand New.' On their face, the declarations appear to be **false or fraudulent** given Viking's similar declaration before the Customs Assessor that the same motor vehicles were defective with broken computer boxes and engine leaks to justify the lower declared valuation.

Executive Order ("E.O.") No. 156,[61] among others, bans the importation of all types of used motor vehicles and parts and components, except those that may be allowed under certain conditions. Section 3 thereof prohibits the importation of used vehicles, to wit:

> "Section 3. Used motor vehicles.
>
> 3.1 The importation into the country, inclusive of the Freeport, of all types of **used motor vehicles is prohibited**, xxx" (Boldfacing supplied)

Thus, only 'Brand New' motor vehicles are allowed to be imported into the country. To be considered 'Brand New', a motor vehicle must be "of **current or advance year model** in the country of origin and/or manufacture, or of yea**r model immediately preceding year** in the country of origin and/or manufacture **AND** must likewise be shown to have a reading of **not more than 200 kilometers in its odometer**, with the importer as its **first owner from the dealer**, as defined by Section 2 of E.O. No. 156, to wit:

> "Section 2. Brand new vehicles
>
> 2.1 The importation of brand new motor vehicles shall be allowed pursuant to Executive Order No. 264, series of 1995 and Monetary Board Circular No. 92, series of 1995. To be **considered brand new**, the motor vehicles shall be (a) of **current or advance year** model in the country of origin and/or manufacture, or (b) of **year model immediately preceding year** in the country of origin and/or manufacture provided that:
>
> 2.1.1 The motor vehicle has a **mileage** of not more than 200 kilometers; and

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[61] Dated December 12, 2002.

> 2.1.2 The motor vehicle has been acquired by the importer from the **dealer as first owner**." (Boldfacing supplied)

Interestingly, the evidence on record, shows that the imported motor vehicles were erroneously classified as 'Brand New' in their import documents. As heretofore stated, in order for the subject motor vehicles to be classified as 'Brand New,' the importer, in this case Viking, must also show that: (1) the **actual mileage** of the motor vehicle it intended to import into the country is not more than 200 kilometers; (2) the **importer is its first owner**; *and*, (3) the importer **bought it from a dealer**.

In making an assessment of the imported motor vehicles, Customs Examiner Rivera, merely relied on the commercial invoice, packing list, and certifications from the importer to verify the import entries and declarations covering the imported motor vehicles. **She did not make any determination or ascertainment as to whether the motor vehicles were indeed brand new.** Her physical examination of the motor vehicles was **limited to ascertaining that there are no guns, ammunitions, drugs, and other contraband hidden with the articles.** Thus, she testified:

> ASST. STATE PROS. MENDOZA:
> Q. But do you recall having processed as Customs Examiner of free service, six (6) entries that were filed by Viking Haulers, Inc. which were enumerated as Entry Nos. 14988, 77473, 33828, 61288, 2012-, 31875?
>
> MS. RIVERA:
> A. Yes, sir.
>
> ASST. STATE PROS. MENDOZA:
> Q. And you used transaction value in computing taxes and duties on the subject imported luxury motor vehicles covered by those entries? Is it not, Madam Witness?
>
> MS. RIVERA:
> A. Yes, sir.
>
> **ASST. STATE PROS. MENDOZA:**
> **Q. In fact, you relied on the commercial invoices, packing list and certifications issued by Unitrade International, Inc. in arriving at their transaction value? Am I also correct?**
>
> **MS. RIVERA:**
> **A. Yes, sir.**

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ASST. STATE PROS. MENDOZA:
Q. But is it not the fact that when you entered your duty as Customs Examiner, you made an oath, do you confirm that?

MS. RIVERA:
A. Yes, sir.

ASST. STATE PROS. MENDOZA:
Q. What is that oath?

MS. RIVERA:
A. To examine and determine whether the document tallies with the shipments and that it was not imported contrary to law, sir.

ASST. STATE PROS. MENDOZA:
Q. And in your own view, have you discharged that duty?

MS. RIVERA:
A. I did not discharge that duty, sir.

ASST. STATE PROS. MENDOZA:
Q. Why did you not discharge that duty?

MS. RIVERA:
A. I examined the questioned shipment based on the documents presented. I made sure that there was no illegal inside the car, *walang baril, walang amo, walang* drugs and that the description tallies with the shipment and document, sir.

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ASST. STATE PROS. MENDOZA:
Q. Have you personally examined the physical condition of the respective computer box and engine of each of the said motor vehicles when you made your findings?

MS. RIVERA:
A. Yes, sir.

ASST. STATE PROS. MENDOZA:
Q. Do you have the competency or training to say whether each of the computer boxes or engine leaks of each motor vehicle is defective?

MS. RIVERA:
A. No, sir.

ASST. STATE PROS. MENDOZA:
Q. So how were you able to make such findings that all of the subject motor vehicles suffered from common

defects of defective computer box and engine leaks when you don't have the competency training to so such work?

MS. RIVERA:
A. I have a technician with me when I examined the said vehicle, sir.

ASST. STATE PROS. MENDOZA:
Q. Who was that technician?

MS. RIVERA:
A. A technician that was provided by the broker representatives, sir.

ASST. STATE PROS. MENDOZA:
Q. You mean Mr. Benjamin Valic provided you the technician?

MS. RIVERA:
A. It is the broker or the importer, but before I examined it, there was a technician with me, sir.

ASST. STATE PROS. MENDOZA:
Q. So, you merely relied on the statement by the technician provided by the importer, Viking Haulers, Inc., that said motor vehicle suffered from common defects of computer boxes and engine leaks. Am I right?

MS. RIVERA:
A. Yes, sir. [62] *(Boldfacing supplied)*

It is evident that the motor vehicles were passed on by the importer as brand new, when in truth and in fact, it is not. For one, Unitrade was not shown to be a dealer for Mercedes, Porsche, Lamborghini, and Maserati, more so considering the defects that these luxury motor vehicles allegedly suffer.

For another, it is contrary to the ordinary course of business that 'Brand New' motor vehicles with zero mileage, especially in this case wherein the subject articles are luxury motor vehicles touted as the pinnacle of motor engineering, are at the same time defective of vital parts. The condition of these luxury motor vehicles belies their condition as 'Brand New'. But, classifying the subject motor vehicles 'Brand New' despite having defects, only further belies the fact that Unitrade is a dealer of brand new motor vehicles and Viking was the first owner of the same.

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[62] TSN dated September 18, 2013, CTA Criminal Case No. O-229 Vol. II, pp. 24-51.

Finally, there appears to be no evidence to demonstrate that the criteria under E.O. No. 156 were in fact observed and that the motor vehicles were properly classified as 'Brand New'.

For failure to comply with the prescribed requirements of E.O. No. 156 for the subject motor vehicles to be considered 'Brand New,' the Court finds that the subject motor vehicles are not brand new, but instead were covered by a **fraudulent import entry** with a fictitious lower transaction value. Otherwise stated, Viking imported into the country the subject motor vehicles through fraudulent means.

Thus, although reasonable doubt exists as to the correctness of the re-computation made by the BOC, the Court finds that the entries covering the importation of the subject motor vehicles were in themselves fraudulent. Fraud, in its general sense, is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust or confidence justly reposed, resulting in the damage to another, or by which an undue and unconscionable advantage is taken of another.[63] The importation documents were fraudulently done when Viking represented that the subject imported motor vehicles are 'Brand New' and defective at the same time.

Third Element: Accused Biag is a responsible officer of Viking in its importation of the subject imported motor vehicles.

The prosecution pins liability on accused Biag mainly on the ground that allegedly accused Biag as incorporator, stockholder, member of the Board of Directors, and Vice President of Viking is responsible for the importation of the subject motor vehicles.

a) Accused Biag is an incorporator, director and stockholder of Viking.

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[63] Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs, G.R. No. 178759, August 11, 2008 *citing* Commissioner of Internal Revenue v. Estate of Benigno P. Toda, Jr., G.R. No. 147188, 14 September 2004, 438 SCRA 290, 300, *citing* Commissioner of Internal Revenue v. CA, 327 Phil. 1, 33 (1996).

While Viking has a separate and distinct personality from its directors and officers, it must be stressed that a corporate entity can only execute its corporate powers through its board of directors and responsible officers.

Alfredo Ching v. Secretary of Justice,[64] delineates the liability of corporate officers if the crime is committed by a corporation:

> If the crime is committed by a corporation or other juridical entity, the **directors, officers, employees or other officers thereof <u>responsible</u> for the offense shall be charged and penalized for the crime, precisely because of the nature of the crime and the penalty therefor**. A corporation cannot be arrested and imprisoned; hence, cannot be penalized for a crime punishable by imprisonment. However, a corporation may be charged and prosecuted for a crime if the imposable penalty is fine. Even if the statute prescribes both fine and imprisonment as penalty, a corporation may be prosecuted and, if found guilty, may be fined.
>
> A crime is the doing of that which the penal code forbids to be done, or omitting to do what it commands. A necessary part of the definition of every crime is the designation of the author of the crime upon whom the penalty is to be inflicted. When a criminal statute designates an act of a corporation or a crime and prescribes punishment therefor, it creates a criminal offense which, otherwise, would not exist and such can be committed only by the corporation. But when a penal statute does not expressly apply to corporations, it does not create an offense for which a corporation may be punished. On the other hand, if the State, by statute, defines a crime that may be committed by a corporation but prescribes the penalty therefor to be suffered by the officers, directors, or employees of such corporation or other persons responsible for the offense, only such individuals will suffer such penalty. **Corporate officers or employees, <u>through whose act, default or omission the corporation commits a crime</u>, are themselves individually guilty of the crime**.
>
> The principle applies whether or not the crime requires the consciousness of wrongdoing. **It applies to those corporate agents** who themselves commit the crime and to those, who, by **virtue of their <u>managerial positions</u> or other similar relation to the corporation, could be deemed responsible for its commission**, if by virtue of their relationship to the corporation, they had the power to prevent the act. Moreover, all parties active in promoting a crime, whether agents or not, are principals. Whether such

[64] G.R. No. 164317, February 6, 2006.

> officers or employees are benefited by their delictual acts is not a touchstone of their criminal liability. Benefit is not an operative fact. (*Boldfacing supplied*)

In the case at bar, it is unrefuted that accused Biag is an incorporator, director and stockholder of Viking. In fact the parties jointly stipulated that at the time of the alleged commission of the offenses accused Biag was an incorporator/stockholder of Viking.[65] The Articles of Incorporation of Viking also lists accused Biag as its incorporator, director and stockholder.[66] In his Counter-Affidavit filed with the Department of Justice, accused Biag also admitted that he is an officer of Viking albeit he did not specify his supposed position therein.[67]

Even accused Biag's direct testimony by way of judicial affidavit, where he tried to deny such fact, only affirmed the allegation that he is indeed an incorporator, director and stockholder of Viking. Accused Biag's judicial affidavit reads:

> "7. Q. I see, and as far as you know, how did you become involved in this criminal complaint by the Bureau of Customs?
>
> A. I was named as an Incorporator and Stockholder of Viking Haulers.
>
> 8. **Q. Do you confirm that you are an Incorporator and Stockholder of Viking Haulers?**
>
> **A. Actually no sir. To be honest, I really don't recall having signed documents relating to Vikings. *At wala po akong inilabas na pera to become a stockholder of Vikings.***
>
> I have never been involved in the operational management of Vikings. I have not received any monetary share or consideration out of my being a supposed stockholder of Vikings. I have my own separate business, that is, the taxi business, APOGEE.
>
> 9. **Q. How can you dissociate yourself from Vikings when the SEC papers would show that you are an incorporator and corporate officer of Vikings?**

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[65] Joint Stipulation of Facts and Issues, CTA Crim. Case No. O-229, Vol. II, p. 632.
[66] Exhibit E, CTA Criminal Case No. O-229, Vol. I, pp. 552-568.
[67] Counter-Affidavit with motion for Immediate Dismissal of the Complaint dated October 4, 2010, CTA Case No. 229 Docket, p. 112.

> **A. Actually sir, *ganito po yon,* it has been a practice within our family to name our relatives as an incorporator of the various businesses that our family members own.** For instance, in my company APOGEE, the listed incorporators are, among others, myself, my brother David, my sister Edwina and my mother Nenita. But it doesn't mean that they are involved with the operations or management of APOGEE. **So in the same manner sir, I was listed as an incorporator of Vikings, when in truth and in fact, I have no participation whatsoever in the operations and management of Vikings."[68]**

There can be no denying that accused Biag **voluntarily** allowed himself to be an incorporator of Viking, knowing fully well that his participation as incorporator in the incorporation of a company is indispensable. It would be the height of legal impropriety to allow an "incorporator" to deny his involvement when it was precisely his participation in the "incorporation" that resulted in the creation of the corporate entity. Given the foregoing pieces of evidence, there can be only one conclusion: accused Biag is an incorporator, director and stockholder of Viking. Needless to say, the Articles of Incorporation is a notarial document, which cannot lightly be ignored or its contents impugned on a general and sweeping statement that its contents did not reflect an incorporator's real intent. *Bienvenido Libres and Julie L. Paningbatan v. Spouses Rodrigo Delos Santos and Martina Olba, Delos Santos* declares:

> "Notarial documents executed with all the legal requisites under the safeguard of a notarial certificate is evidence of a high character. To overcome its recitals, it is incumbent upon the party challenging it to prove his claim with clear, convincing and more than merely preponderant evidence. **A notarial document, guaranteed by public attestation in accordance with the law, must be sustained in full force and effect so long as he who impugns it does not present strong, complete, and conclusive proof of its falsity or nullity on account of some flaws or defects provided by law. Without that sort of evidence, the presumption of regularity, the evidentiary weight conferred upon such public document with respect to its execution, as well as the statements and the authenticity of the signatures thereon, stand**."[69] (Boldfacing added)

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[68] Exhibit "10," Judicial Affidavit of Rodelito Biag, CTA Criminal Case No. O-229, Vol. II, p. 935-936.
[69] G.R. No. 176358 June 17, 2008, *citing Carandang-Collantes v. Capuno,* G.R. No. L-55373, July 25, 1983.

With regard to the prosecution's allegation that accused Biag is the **Vice President** of Viking, the Court notes that the prosecution failed to present any clear and convincing evidence to show that accused Biag was indeed occupying aforestated position at or during the time of the importations involved. To be sure, not even the General Information Sheet ("GIS") filed with the SEC by Viking covering the years relevant to the dates of the subject importations were presented. Yet, the Corporation Code[70] requires corporations to submit to the SEC, within thirty (30) days after the election, the names, nationalities and residences of the elected directors, trustees and officers of the corporation. The election is generally held during the annual stockholders' meeting and even if the corporation does not hold an annual stockholders' meeting the corporation is still required to file a GIS indicating such fact. As aforestated, there is uncertainty whether accused Biag is Viking's Vice President at the time the subject importations were made or at any time since Viking's incorporation.

b) Accused Biag's being merely an incorporator, director, or stockholder of Viking is not enough to warrant his conviction of the crimes charged.

Be that as it may, the mere fact that accused Biag is an incorporator, director and stockholder of Viking, or even assuming that accused Biag is indeed the Vice President of Viking, still, such circumstance alone does not necessarily warrant his conviction of the crimes charged.

ABS-CBN Corporation v. Felipe Gozon et al.,[71] is instructive in declaring that the criminal liability of a corporation's officers stems from their **active participation** in the commission of the wrongful act, *viz.*:

> "An accused's participation in criminal acts involving violations of intellectual property rights is the subject of

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[70] Section 26. *Report of election of directors, trustees and officers.* – **Within thirty (30) days after the election of the directors, trustees and officers of the corporation, the secretary, or any other officer of the corporation, shall submit to the Securities and Exchange Commission, the names, nationalities and residences of the directors, trustees, and officers elected**. Should a director, trustee or officer die, resign or in any manner cease to hold office, his heirs in case of his death, the secretary, or any other officer of the corporation, or the director, trustee or officer himself, shall immediately report such fact to the Securities and Exchange Commission.
[71] G.R. No. 195956, March 11, 2015.

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allegation and proof. The showing that the accused did the acts or contributed in a meaningful way in the commission of the infringements is certainly different from the argument of lack of intent or good faith. **Active participation requires a showing of overt physical acts or intention to commit such acts.** Intent or good faith, on the other hand, are inferences from acts proven to have been or not been committed.

xxx xxx xxx

Mere membership in the Board or being President per se does not mean knowledge, approval, and participation in the act alleged as criminal. There must be a showing of active participation, not simply a constructive one."[72] (Boldfacing supplied)

Bureau of Customs v. The Honorable Agnes VST Devanadera, et al, [73] further clarified:

"**With respect to the directors or officers** of OILINK, they may further be held liable jointly and severally for all damages suffered by the government on account of such violation of Sections 3602 and 3611 of the TCCP, **upon clear and convincing proof that they willfully and knowingly voted for or assented to patently unlawful acts of the corporation or was guilty of gross negligence or bad faith in directing its corporate affairs.**" (Boldfacing supplied)

In other words, to hold accused Biag personally liable for Viking's unlawful acts, it is imperative that accused Biag assented to patently unlawful acts of the corporation, or that he was guilty of gross negligence or bad faith.

This, the prosecution failed to do.

In the case at bar, the prosecution solely infers accused Biag's participation in the crimes charged from his relationship with Viking as its incorporator, director, stockholder and for being its purported Vice President. The Amended Complaint-Affidavit of Atty. Flores itself reads:

7. Complicity/participation of the following respondents can **further** be inferred, to wit:

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[72] *Id.*
[73] G.R. No. 193253, September 8, 2015.

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> 8.2 RODELITO M. BIAG - being the Vice-President of Viking Haulers Inc., he had authorized or at least consented to the unlawful importation of the subject shipments considering the fact that he had a hand in the financial operations of the corporations. He also authorized the processing and release of the used motor vehicles by passing it off as 2010 models when they were actually 2009/2008 models. He also deliberately allowed the non-payment of correct duties and taxes to the damage and prejudice of the government".[74]

The testimony of Atty. Flores on cross-examination is most telling:

> "ATTY. KAPUNAN
> Q Ms. Witness, would you confirm that the original, the persons who were originally charged in these consolidated cases were the **incorporators** of Viking Haulers. Is that correct?
>
> ATTY. FLORES
> A Yes.
>
> ATTY. KAPUNAN
> Q. So, you charged the following persons, Reynaldo Pazcoguin, Jr.?
>
> ATTY. FLORES
> A. Yes.
>
> ATTY. KAPUNAN
> Q. Rodelito Biag, Nenita Biag, Ofella Pazcoguin and Edwina Pazcoguin. Is that correct?
>
> ATTY. FLORES
> A. Yes
>
> ATTY. KAPUNAN
> Q. Now, would you be able to know why the other persons were not charged before this Court?
>
> ATTY. FLORES
> A. Who are the other persons you are referring to?
>
> ATTY. KAPUNAN
> Q. To the persons who are not named Accused in this case, Nenita Biag, Ofella Pazcoguin and Edwina Pazcoguin Ms. Witness?

[74] Exhibit "C-11", CTA Crim. Case No. O-229, Vol. I, p. 525.

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ATTY. FLORES
A. In preparing the complaint, we just based it in the Articles of Incorporation and GIS.

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ATTY. KAPUNAN
Q. Thank you Ms. Witness. Now, just a few more questions. Madame Witness, would it be accurate to say that as the investigator of this case, your only basis in filing or pleading the Accused Rodel Biag is the fact that he is the named incorporator of Viking Haulers?

A. Yes.

ATTY. KAPUNAN
Q. And nothing more?

ATTY. FLORES
A. Yes

ATTY. KAPUNAN
Q. You did not go through, as an investigator, you did not go through or undergo further efforts to determine whether or not Mr. Biag was a functioning officer of Viking Haulers?

ATTY. FLORES
A. Yes, we just based on the documents available at that time.

ATTY. KAPUNAN
Q. So, you did not actually find out who was financially in-charge or operationally-in charge of Viking Haulers?

ATTY. FLORES
A. No, just based on the Information Sheet that we gathered from SEC.[75] (Boldfacing supplied)

As one of the elements of the crimes charged is that accused is the responsible officer for the alleged unlawful importation, it is the prosecution's duty to prove beyond reasonable doubt his actual participation therein.

Aside from the allegations in Atty. Flores's Amended Complaint-Affidavit, the prosecution did not present evidence to show accused Biag's **actual participation** in the alleged importation of motor vehicles. In fact, among all the evidence offered before this Court, the signature of accused Biag appears only in three documents - the Articles of Incorporation, By-Laws of Viking and his Counter-Affidavit - which establish

[75] TSN dated February 4, 2014, CTA Crim. Case No. 229 Vol. III, pp.48-53.

accused Biag's participation in incorporating Viking, but not his supposed participation in the corporate affairs of Viking, particularly on the importations of the subject motor vehicles.

On this point, the prosecution counters that "the [accused] may not have signed or executed any documents presented before the BOC in support of the subject importations but certainly being the officers of [Viking] they authorized their broker to make declarations contained in the import entry and provided said broker with the documents in order to support the value they declared... [Accused] being the responsible officers of [Viking], undisputedly authorized their customs broker to sign for and in their behalf and facilitate the release of their subject shipments."[76]

True, the fact that accused Biag did not sign or execute any documents pertaining to the importations of the subject motor vehicles does not preclude the possibility that he may have in truth participated in such importations. The prosecution, however, failed to prove the overt physical acts or intention to commit the imputed criminal acts of accused Biag that would have shown his actual participation in the crimes charged. **Mere speculations cannot substitute for proof in establishing the guilt of the accused.**[77]

In contrast, the testimony of accused Biag, as corroborated by the testimony of his witnesses, Ms. Coronel and Mr. Silva, established that he had no participation in the operational management of Viking; and, that Viking's operations supervisor, Mr. Silva, disowned him as part of the Viking's management.

Ms. Coronel testified, as follows:

> ATTY. KAPUNAN:
> Q. Madam Witness, is it safe to assume that you have known Mr. Rodelito Biag since 1993, the year when you were first employed by Auto Trend?
>
> MS. CORONEL:
> A. No. I only knew him few years later, not 1993.

[76] Exhibit "D", CTA Crim. Case No. 229 Vol. I, p. 528.
[77] Monteverde v. People, G.R. No. 139610, August 12, 2002.

ATTY. KAPUNAN:
Q. Around what year would that be if you remember?

MS. CORONEL:
A. 3, 4 years, perhaps.

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ATTY. KAPUNAN:
Q. So, around 1997, Madam Witness?

MS. CORONEL:
A. Yes, yes, sir.

ATTY. KAPUNAN:
Q. And you know him first as?

MS. CORONEL:
A. He is the brother-in-law.

ATTY. KAPUNAN:
Q. The brother-in-law of?

MS. CORONEL:
A. Of my boss, of Reynaldo Pazcoguin.

ATTY. KAPUNAN:
I see.
Q. Could you describe to the Honorable Court what kind of relationship does Mr. Pazcoguin and Mr. Biag have?

MS. CORONEL:
A. Not so much because **Mr. Biag doesn't come often to our office. The only time he visits the office is when I had him sign the documents. That's the only time. He doesn't frequent the office.**[78] (Boldfacing supplied)

While in his Judicial Affidavit, Mr. Silva testified, as follows:

5. Q. Now do you know the person by the name of Rodelito Biag?

   A. I do not know him personally sir. I only know him by name as relative of Reynaldo 'Nilo' Pazcoguin III.

6. Q. Was there ever a time that you saw or met Mr. Biag personally?

[78] TSN dated February 18, 2015, CTA Criminal Case No. O-229 Vol. III, pp. 21-23.

A. No sir.

7. **Q. And during your time as Operations Supervisor of Vikings Haulers Inc. up until the present, was there ever a point when Mr. Biag became an employee or corporate officer of Viking Haulers Inc. and/or Envirokings Corp.?**

A. No sir.

8. **Q. Finally, was there ever a point when Mr. Biag loitered in the office premises of Vikings or Envirokings, and represented himself to be an employee or officer of the company?**

A. No sir. ***Never pa syang nagpunta sa opisina namin.***"[79] (Boldfacing supplied)

People v. Mendoza,[80] succinctly explained the burden of proof in criminal cases, *viz.*:

> **In all criminal prosecutions, the prosecution bears the burden to prove the guilt of the accused beyond reasonable doubt. In discharging this burden, the prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused.** The burden of proof placed on the prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. **Conversely, as to his innocence, the accused has no burden of proof,** that he must then be acquitted and set free should the prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.

The rule is trite that "in our criminal justice system, the overriding consideration is not whether the court doubts the

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[79] Judicial Affidavit dated April 6, 2015, Exhibit "11", CTA Criminal Case No. O-229 Vol. II, pp. 971.

[80] G.R. No. 192432, June 23, 2014 *citing* People v. Belocura G.R. No. 173474, August 29, 2012, 679 SCRA 318, 346-347 *citing* Patula v. People, G.R. No. 164457, April 11, 2012, 669 SCRA 135, 150-151.

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innocence of the accused but whether it entertains a reasonable doubt as to his guilt. Where there is reasonable doubt as to the guilt of the accused, he must be acquitted even though his innocence may be doubted since the constitutional right to be presumed innocent until proven guilty can only be overthrown by proof beyond reasonable doubt."[81]

Guided with the foregoing pronouncements, this Court rules that for failure of the prosecution to prove the actual participation of accused Biag in the crimes charged, reasonable doubt exists as to accused Biag's guilt, hence, this Court is left with no recourse but to acquit accused Biag in the four (4) remaining cases against him.

Imported articles found to have entered the Philippines illegally or through fraudulent means must be forfeited in favor of the government.

Given the foregoing backdrop, this Court will now proceed to resolve the question: whether the subject motor vehicles may be forfeited in favor of the government.

Settled is the rule that forfeiture proceedings are in the nature of proceedings *in rem, i.e.,* directed against the *res* or imported articles and entails a determination of the legality of their importation. *Transglobe International, Inc. v. Court of Appeals,*[82] ruled that forfeiture of seized goods is a **proceeding against the goods** and not against the owner. In this proceeding, it is in legal contemplation the property itself which commits the violation and is treated as the offender, without reference whatsoever to the character or conduct of the owner.

Having been imported under fraudulent import entries, pursuant to Section 2530, paragraph I (3), (4), and (5) of the TCCP, as amended, the Court hereby rules that the subject luxury motor vehicles should *ipso facto* be forfeited in favor of the government.

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[81] People v. Baulite and Baulite, G.R. No.137599, October 8, 2011.
[82] G.R. 126634, January 25, 1999.

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WHEREFORE, on the ground of reasonable doubt, accused **RODELITO MANALANG BIAG** is hereby **ACQUITTED** of the crimes charged in CTA Crim. Case Nos. O-229, O-232, O-233 and O-236.

Further, pursuant to Section 2530, paragraphs I (3), (4), and (5) of the TCCP, as amended, the following motor vehicles subject of these consolidated criminal cases are hereby **FORFEITED** in favor of the government to be disposed of in the manner prescribed by law, *viz.*:

Motor Vehicle	Engine No.	Serial No.
Lamborghini Gallardo model 2010[83]	07L103601F	ZHWGU54T79LA07747
Mercedes Benz SL65 model 2010[84]	27598360007491	WDBSK79FX9F157613
Porsche GT3 model 2010[85]	M977761A23760	WPOAC2A92AS783185
Maserati Quattroporte model 2009[86]	M139A117199	LAMFE39A480030665

With regard to accused **REYNALDO M. PAZCOGUIN, JR.** it appearing from the records that: 1) the Warrant of Arrest for the said accused dated September 26, 2011 was returned unserved on the ground that subject accused was not found at the given address since accused "does not reside nor hold office therein",[87] and 2) to date, the accused is still at large, in order that this case may not remain pending in the Court's docket for an indefinite period of time, CTA Crim. Case Nos. O-229, O-231, O-232, O-233 & O-236 are hereby archived, without prejudice to their revival immediately upon apprehension of the said accused Reynaldo M. Pazcoguin, Jr.

Let a copy of this Decision be furnished to the Secretary of Justice, Commissioner of Customs, and the Assistant Secretary of the Land Transportation Office, for their information and guidance.

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[83] As shown in Exhibit "M" Certification of Payment and Certificate of Vehicle Physical Check-up, CTA Case No. O-229 Docket Vol. I, p. 541.
[84] As shown in Exhibit "G" Certification of Payment and Certificate of Vehicle Physical Check-up, CTA Case No. O-229 Docket Vol. I, p. 536.
[85] As shown in Exhibit "I" Certification of Payment and Certificate of Vehicle Physical Check-up, CTA Case No. O-229 Docket Vol. II, p. 624.
[86] As shown in Exhibit "O" Certification of Payment and Certificate of Vehicle Physical Check-up, CTA Case No. O-229 Docket Vol. I, p. 539.
[87] CTA Crim. Case No. O-229 Docket Vol. I, pp. 293-294.

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SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

(*Inhibited*)
CIELITO N. MINDARO-GRULLA
Associate Justice

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.

ROMAN G. DEL ROSARIO
Presiding Justice