REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF CUSTOMS,
Petitioner,

-versus-

PROGRESSIVE GRAINS MILLING CORP.,
Respondent.

CTA EB NO. 2493
(CTA Case No. 9847)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
JUL 28 2023 3:18 p.m.

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RESOLUTION

MANAHAN, J.:

This resolves the *Motion for Reconsideration [Of the Decision dated 20 February 2023]* [1] filed by petitioner Commissioner of Customs (COC) on March 16, 2023. Per Records Verification dated May 19, 2023, respondent Progressive Grains Milling Corp. failed to file its comment.[2]

Petitioner assails the Decision, dated February 20, 2023, which disposed of the case, as follows:

> **WHEREFORE**, the Petition for Review is **DENIED** for lack of merit. The Decision dated November 18, 2020 and Resolution dated May 24, 2021, in CTA Case No. 9847 are **AFFIRMED**.
>
> Petitioner's Verified Omnibus Motion [To: A) Direct the Sale of the Subject Rice Shipments at a Public Auction, and

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[1] EB Docket, pp. 284-296.
[2] EB Docket, p. 303.

B) Hold the Proceeds of the Auction Sale in Escrow] is likewise **DENIED**.

SO ORDERED.[3]

In its *Motion*, petitioner argues that the subject rice shipment exceeding the quantity allowed under respondent's National Food Authority (NFA) Import Permit is a prohibited importation and/or contrary to law, hence, subject to forfeiture pursuant to Sections 118 and 1113 of the Customs Modernization and Tariff Act (CMTA). While the rice shipment is not a prohibited commodity by itself, respondent's imported rice was not covered by the required NFA Import Permit. As such, respondent's imported rice shipment in excess of its Import Permit was prohibited or contrary to law, thereby making such rice shipment subject to forfeiture. Petitioner also states that while settlement of forfeiture is recognized by law, petitioner refused the settlement offered by respondent since the release of the excess rice shipment is prohibited by Section 1124 of the CMTA. Thus, petitioner prays that the subject rice shipment should instead be sold through a public auction.

The *Motion* is denied.

At the outset, the Court notes that petitioner's arguments are a rehash of previous arguments already squarely discussed and resolved at the Division level and in the assailed Decision.

We reiterate our findings that the seizure of the excess 603.15 MT of white rice was proper in the absence of the NFA Import Permit covering it. Nevertheless, we also find that the subject white rice shipments are <u>not</u> prohibited importations *per se* which would make the same subject to forfeiture. At most, the subject rice shipments were merely "regulated" and not "prohibited" commodities.[4] There is nothing inherently prohibited in the importation of the subject white rice.

Based on the foregoing, we reiterate our disposition that the subject shipments be released to respondent upon payment of the assessed customs duties covering the

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[3] EB Docket, p. 275.
[4] *Secretary of the Department of Finance v. Court of Tax Appeals (Second Division) and Kutangbato Conventional Trading Multi-Purpose Cooperative*, G.R. No. 168137, August 7, 2013 Resolution. *om*

603.15MT of white rice in the amount of Php4,011,183.00, with a fine equivalent to 30% of the deteriorated value, plus storage fees computed up to June 30, 2017 only. The release of the subject rice shipment, instead of selling the same through public auction, will enable respondent to transact the said rice for some other lawful purpose. At the same time, the interests of the government are protected by the order to pay the assessed customs duties, and appropriate fines and storage fees.

All told, there is no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, petitioner's *Motion for Reconsideration [Of the Decision dated 20 February 2023]* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(ON OFFICIAL BUSINESS)

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice