REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

VERTEX INTERNATIONAL PRODUCT AND EXCHANGE CORPORATION, through its PRESIDENT RICARDO LUZ, Petitioner,	C.T.A. CASE NO. 8193
	Members:
-versus-	BAUTISTA, *Chairperson* FABON-VICTORINO, *and* RINGPIS LIBAN, *JJ.*
COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS, Respondent.	Promulgated: FEB 4 2014 3:50 p.m.

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DECISION

Fabon-Victorino, J.:

This Petition for Review filed by petitioner Vertex International Product and Exchange Corporation on November 24, 2010, through its President Ricardo Luz, seeks to nullify the Decision of the Commissioner of Customs (COC) dated January 7, 2010. The assailed Decision reversed the Order dated May 20, 2008 by the District Collector of the Port of Manila quashing the Warrant of Seizure and Detention (WSD) issued in Seizure Identification No. 2008-060 entitled "Republic of the Philippines vs. More or Less Twenty Thousand (20,000) sacks of Jasmine Rice allegedly imported from Thailand found inside a Warehouse located at 10 Manhattan cor. Seattle Streets, Cubao, Quezon City."

Petitioner Vertex International Product and Exchange Corporation is a Philippine corporation, with principal office at 789 Aurora Boulevard, Immaculate Conception, Cubao, Quezon City.[1]

Respondent, on the other hand, is a government agency attached to the Department of Finance, with principal office at the Office of Commissioner, Bureau of Customs, South Harbor, Manila.

Sapang Primary Multi-Purpose Cooperative (SPMC) is a grantee of a grains business license by the National Food Authority (NFA) and/or the Philippine International Trading Corporation (PITC).[2]

On January 22, 2008, SPMC executed a Deed of Assignment in favor of petitioner over the sacks of rice subject of this case.[3]

In March 2008, a shipment of seventeen thousand eight hundred (17,800) sacks of rice consigned to PITC for the account of SPMC arrived at the Port of Manila.[4]

After assessment by respondent, the dutiable value of the shipment was determined at Five Million Two Hundred Seventy-Four Thousand Two Hundred Ninety Pesos and Eight Centavos (P5,274,290.08). PITC paid for SPMC the amount of Two Million One Hundred Ten Thousand Seven Hundred Eighteen Pesos (P2,110,718.00) as duties and taxes with a tariff rate of forty percent (40%).[5]

On March 31, 2008, the operatives of the Presidential Anti-Smuggling Group (PASG), by virtue of Mission Order No. 0108-2008 served on Adonis Carmona,[6] entered petitioner's warehouse at No. 10 Manhattan corner Seattle Streets, Cubao, Quezon City where they found 20,000 sacks

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[1] Par. 1, The Parties, Petition for Review, docket, p. 3.
[2] Par. 1, Joint Stipulation of Facts, Joint Stipulation of Facts and Issues and Proposed Witnesses and Exhibits (JSFIPWE), docket, p. 121; Exhibit "O".
[3] Par. 2, Joint Stipulation of Facts, JSFIPWE, docket, p. 121.
[4] Par. 3, Joint Stipulation of Facts, JSFIPWE, docket, *Ibid.*
[5] Par. 4, Joint Stipulation of Facts, JSFIPWE, docket, *Ibid.*
[6] Par. 5, Joint Stipulation of Facts, JSFIPWE, docket, *Ibid.*

of rice inside. Parked in front of the warehouse was a 1x20 container van (No. OOLU8235734).

Per the documents submitted by the owner, the warehouse belonged to petitioner Vertex International Product and Exchange Corporation, with Ricardo Luz as its president and the rice found therein were imported by SPMC, to which a Certificate of Accreditation and Import License were respectively issued by the Customs Accreditation-Secretariat (CAS-BOC) and the NFA. The documents also showed that petitioner acquired the sacks of rice by virtue of a Deed of Assignment executed by SPMC in its favor.[7]

On April 10, 2008, the District Collector of the Port of Manila issued a Warrant of Seizure and Detention against the subject shipment for alleged violation of Section 2530(f) and (1)(5) of the Tariff and Customs Code of the Philippines (TCCP), as amended, in relation to NFA rules and regulations.[8]

On April 16, 2008, petitioner filed a Motion to Quash the Warrant of Seizure and Detention claiming, among others, that the ownership of subject shipment was lawfully transferred by SPMC to petitioner and that PASG has no authority from COC to seize the shipment pursuant to Section 2536 of the TCCP, as amended.[9]

On April 22, 2008, the PASG filed its comment on the Motion to Quash raising the legality of the Deed of Assignment as the rights and privileges granted to SPMC cannot be assigned to a third party. Moreover, its authority to seize shipment is backed by Executive Order (E.O) No. 624 and the deputation of the PASG Head to enforce the provisions of the TCCP, as amended[10] issued by respondent.

[7] Order of the District Collector of Manila dated May 20, 2008, Exhibit "4".
[8] Exhibit "3".
[9] Par. 6, Respondent's Comment, docket, pp. 60-61; p. 2 of Decision of Commissioner of Customs dated April 16, 2010, Exhibit "6".
[10] Par. 7, Respondent's Comment, docket, p. 61; pp. 2-3 of Decision of Commissioner of Customs dated April 16, 2010, Exhibit "6".

On May 20, 2008, the District Collector of Port of Manila quashed the Warrant of Seizure and Detention in the Order dated April 10, 2008 and ordered the release of the 20,000 sacks of rice, more or less, found in the warehouse located at No. 10 Manhattan corner Seattle Streets, Cubao, Quezon City, pursuant to Section 2313 of the TCCP, as amended.[11]

On January 7, 2010, respondent issued a Decision reversing the foregoing Order of the District Collector of Port of Manila and directed the forfeiture of the rice shipment in favor of the government.[12]

On February 17, 2010, petitioner, through its customs broker, Adonis C. Carmona, filed a Motion for Reconsideration, which respondent denied for lack of merit in the Decision dated April 16, 2010.[13]

Hence, the instant Petition for Review filed on November 24, 2010.

On April 5, 2011, petitioner moved to declare respondent in default for failure to file the required Answer within the period granted.[14] It was however denied in the Resolution of April 20, 2011.[15]

On May 2, 2011, respondent filed her Comment, through registered mail, raising the following arguments[16]:

> I.
> Petitioner was not denied the due process of law in the seizure proceedings conducted below.
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> II.
> The Commissioner of Customs retains

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[11] Exhibit "4".
[12] Par. 6 of the Decision of the Commissioner of Customs dated April 16, 2010, Exhibit "6".
[13] Par. 10, Respondent's Comment, docket, p. 62; Exhibit "6".
[14] Docket, pp. 51-53.
[15] Docket, p. 57.
[16] Docket, pp. 63-72.

jurisdiction over the subject shipment under Section 2313 of the TCC, as amended.

III.
The recall of the Warrant of Seizure and Detention was inappropriate because:

A.
There was a violation of the last paragraph of Section 2313 of the Tariff and Customs Code, as amended, in the release of subject shipment.

B.
Fraud attended the transfer of subject importation from the importer to petitioner.

After the parties filed their respective pre-trial briefs, they submitted their Joint Stipulation of Facts and Issues and Proposed Witnesses and Exhibits on September 15, 2011[17] which the Court approved on September 22, 2011.[18]

During the trial, petitioner presented its lone witness **Ricardo Luz**. He testified, through a judicial affidavit,[19] that as President of Vertex International Product and Exchange Corporation since 2005, he is familiar with the instant case involving the forfeiture by the BOC of bags of jasmine rice found in petitioner's warehouse located at 10 Manhattan corner Seattle Streets, Cubao, Quezon City.

According to him, the bags of jasmine rice were already at petitioner's warehouse because the shipment had already been released by the BOC after the required documents such as the Import Entry and Internal Revenue Declaration (IEIRD) together with the 1) Commercial Invoice, 2) Packing List, 3) Bill of Lading,[20] 4) Certificate of Quality, 5) Certificate of Weight, 6) Certificate of Fumigation, 7)

[17] Docket, pp.120-128.
[18] Docket, p. 132.
[19] Exhibits "Q" and "Q-1".
[20] Exhibit "E".

Phytosanitary Certificate, 8)Certificate of Origin, 9) Import Permit,[21] 10) Certification issued by PTIC, 11) Notice of Allocation and 12) Grains Business License,[22] have been filed with the BOC. Moreover, the duties and taxes due on the said sacks of rice have already been paid at the rate provided by law[23].

Based on the IEIRD with Serial No. 86779831,[24] the total amount of duties and taxes assessed against petitioner was P2,110,718.00,[25] while the total amount paid as evidenced by Official Receipt No. 0192142 issued by the Land Bank of the Philippines on March 27, 2008[26] amounts to P2,110,838.00.[27]

Witness Luz further declared that all the originals of the cited documents were submitted to the PASG, which had been dissolved thus, he did not know where the documents could be retrieved. Nevertheless, he knew that petitioner owned the jasmine rice which it purchased from SPMC since he was its authorized representative in the Deed of Assignment with SPMC.

The witness added that NFA granted the Import Permit to the PITC which further granted a permit to SPMC, a cooperative. Petitioner, on the other hand, distributed the rice to the general public and to the members of SPMC.

Petitioner rested its case as indicated in the Resolution dated July 20, 2012.[28]

For its part, respondent presented **Louella D. Quevedo** of the Bureau of Customs who in her Judicial Affidavit[29] declared that as the Officer-in-Charge of the Docket Section of the Law Division of the Port of Manila, Bureau of Customs, she docketed the Seizure and Forfeiture

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[21] Exhibit "K".
[22] Exhibits "O" and "P".
[23] Exhibit "B" and "B-1".
[24] Exhibit "A".
[25] Exhibit "A-1".
[26] Exhibit "B".
[27] Exhibit "B-1".
[28] Docket, pp. 216-217.
[29] Exhibits "7", "7-A" and "7-B".

case against petitioner as Seizure Identification No. 2008-060. She has in her custody the entire record of the said case.

She was requested to certify on the authenticity of the following documents: 1) TSN of April 16, 2006,[30] 2) Deed of Assignment dated January 22, 2008, 3) Warrant of Seizure and Detention issued by the District Collector of the Port of Manila on April 10, 2008,[31] 4) Order dated May 20, 2008 issued by the District Collector of Manila, 5) COC's Decision dated January 7, 2010, and 6) COC's Decision dated April 16, 2010.[32]

Witness Quevedo further testified that she is responsible for all the incoming and outgoing documents of the Law Division as well as in the preparation of the Warrants of Seizure and Detention and docketing of protest cases, abandonments and seizures. She certifies documents based on record on file but she has no participation in the preparation and execution of the certified documents. In any event, she reads all the documents she receives before recording them in the logbook.

Respondent rested after formal offer of its evidence which was resolved in the Resolution dated March 19, 2013.[33]

Despite directive, only petitioner filed a Memorandum on May 6, 2013.[34]

STATEMENT OF ISSUES

The parties submitted the following issues[35] for the resolution of the Court:

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[30] Exhibit "1".
[31] Exhibit "3".
[32] Exhibit "6".
[33] Docket, pp. 303-304.
[34] Docket, pp. 306-314.
[35] Docket, p. 122.

1. Whether petitioner was denied due process of law in the seizure proceedings conducted below;

2. Whether the Commissioner of Customs lost his jurisdiction upon the release of subject shipment from customs' custody; and

3. Whether the release of the subject importation by the Collector of Customs was appropriate.

THE RULING OF THE COURT

The crux of the controversy is the validity of the assailed Order dated January 7, 2010 of respondent COC directing the forfeiture of the shipment of sacks of Jasmine Rice allegedly imported from Thailand and discovered inside petitioner's warehouse located at 10 Manhattan corner Seattle Streets, Cubao, Quezon City, issued pursuant to Section 253(f) and (1)(5) of the TCCP, as amended.

Petitioner claims that that it was denied due process in the seizure proceedings given the absence of any evidence that a Warrant of Seizure and Detention was duly served to it. Moreover, respondent neither had jurisdiction over the subject shipment nor competence to reverse the Order of the Collector of Customs since petitioner had already paid the correct duties and taxes and the subject shipment had already been released from BOC's custody.

Respondent however says the contrary. Allegedly, he has the authority to review the Order of the Collector of Customs pursuant to Section 2313 of the TCCP, as amended, since the said Order was adverse to the government, hence, subject to his automatic review. Further, Section 2313 of the TCCP, as amended, also provides that in any seizure proceeding, the release of the imported articles shall not be allowed unless and until the decision of the Collector of Customs has been confirmed in writing by the COC. Lastly, the subject shipment was subjected to forfeiture as the transfer of said shipment from the original importer to petitioner was tainted with fraud.

Settled is the rule that jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law, not by consent of the parties. To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the ability of its entire proceedings.[36]

Republic Act (R.A.) No. 1125, as amended by Republic Act Nos. 9282 and 9503, creating the Court of Tax Appeals (CTA), did not grant the CTA blanket authority to decide any and all tax disputes. In defining the CTA's jurisdiction, R.A. No. 1125, as amended, limited the CTA's authority to those matters enumerated therein.[37] Section 7 of R.A. No. 1125, as amended, in part reads:

> SEC. 7. *Jurisdiction*. - The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx xxx xxx
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> (4) **Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs** (Emphases supplied)

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[36] *Commissioner of Internal Revenue vs. Leonardo S. Villa and The Court of Appeals*, G.R. No. L-23988, January 2, 1968.

[37] *Genaro Ursal, as City Assessor of Cebu vs. Court of Tax Appeals and Consuelo Noel; Genaro Ursal, as City Assessor of Cebu vs. Court of Tax Appeals and Jesusa Samson*, G.R. Nos. L-10123 and L-10355, April 26, 1957.

In relation to the foregoing, Section 3 of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), provides:

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

However, the exercise of the Court's jurisdiction to rule on the decisions of the Commissioner of Customs is conditioned on the timeliness of the filing of the appeal. Section 11 of R.A. No. 1125, as amended by R.A. No. 9282, states that:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal*. - **Any party adversely affected by a decision, ruling or inaction of the** Commissioner of Internal Revenue, **the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days**

> **after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Sec. 7(a)(2) herein**.
>
> **Appeal shall be made by filing a petition for review** under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure **with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon**. xxxx. (Emphases supplied)

There is no dispute that the Collector of Customs issued the Order quashing the WSD dated April 10, 2008 on May 20, 2008. The said Order was reversed by respondent in his Decision dated January 7, 2010 wherein he declared the forfeiture of the subject rice shipment in favor of the government. Aggrieved, petitioner filed a Motion for Reconsideration on February 17, 2010, which respondent denied for lack of merit in the Decision dated April 16, 2010. On November 24, 2010, petitioner filed the instant Petition for Review before the Court praying for the nullification of the assailed Decision of January 7, 2010.

Under Section 11 of RA No. 1125, as amended, petitioner had thirty (30) days from January 7, 2010 or until February 8, 2010, since February 6, 2010 fell on a Saturday,[38] within which to seek the nullification of the assailed Decision of January 7, 2010. For unknown reason, petitioner instituted the instant Petition for Review with the Court only on November 24, 2010, or way beyond the period to appeal.

Even if the Court reckons the 30-day period to appeal from the denial of petitioner's Motion for Reconsideration on April 16, 2010, still the instant Petition for Review was filed way beyond the allowable 30-day period on November 24, 2010. From April 16, 2010, petitioner only had until May

[38] Sec. 1, Rule 22 of Rules of Court.

16, 2010 within which to seek review from this Court. The said date however fell on a Sunday, thus, petitioner had until May 17, 2010, within which to seek judicial review.[39]

Clearly, for belated filing of its appeal, the Court can no longer entertain petitioner's appeal on jurisdictional ground.

It has been ruled that the Court of Tax Appeals, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[40] For a decision rendered without jurisdiction is not a decision in contemplation of law and can never become executory.[41] Any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before the Supreme Court.[42] A void judgment is in legal effect no judgment, by which no rights are divested, from which no rights can be obtained, which neither binds nor bonds anyone, and under which all acts performed and all claims flowing therefrom are void.[43]

Guided by a myriad of cases, "the right to appeal is not a natural right or a part of due process, it is merely a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of law. The party who seeks to avail of the same must comply with the requirements of the law. Failing to do so, the right to appeal is lost."[44]

Since this Court has no jurisdiction over the instant Petition for Review, the other issues raised by petitioner becomes inconsequential and need not be resolved.

WHEREFORE, the Petition for Review dated November 24, 2010 filed by Vertex International Product and

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[39] *Ibid.*
[40] *Rizal Commercial Banking Corp. vs. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007, 522 SCRA 144.
[41] *Heirs of Honrales vs. Honrales*, G.R. No. 182651, August 25, 2010.
[42] *Bungcayao, Sr. vs. Fort Ilocandia Property Holdings*, G.R. No. 170483, April 19, 2010.
[43] *Tanenglian vs. Silvestre, et al.*, G.R. No. 173415, March 28, 2008.
[44] *Producers Bank of the Phil. vs. Court of Appeals*, G.R. No. 126620, April 17, 2002, 381 SCRA 185 citing *Ortiz vs. Court of Appeals*, 299 SCRA 708 (1998).

Exchange Corporation, through its President Ricardo Luz, is hereby **DISMISSED**, on jurisdictional ground.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division's Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice