CTA Form No. 8

21-000338-0082

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10599

MILLIONSTAR GRAINS CORPORATION, represented by its President, MS. JAENA BAUTISTA-MANUNTAG,
Petitioner,

- versus -

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila; and
HON. REY LEONARDO GUERERRO, Commissioner of Customs, South Harbor, Port Area, Manila,
Respondents.

NOTICE OF DECISION

To:

SENIOR STATE SOLICITOR JOEL N. VILLASERAN
STATE SOLICITOR SOLIEL C. FLORES
ASST. SOLICITOR KEVIN YURI C. CHAN
ASSOCIATE SOLICITOR VICTOR EMMANUEL I. ALMAZAR
OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village, Makati City

COMMISSIONER OF CUSTOMS
Commissioner of Bureau of Customs
Ground Floor, OCOM Bulding
16th Street, South Harbor, Port Area, Manila

HON. DISRICT COLLECTOR OF CUSTOMS
Port of Manila International Container Terminal (MICT)
S Access Road, North Harbor, Port Area
Tondo, Manila

VALDEZ LAW & ASSOCIATES
Unit 804, Future Point Plaza I
112 Panay Avenue, Brgy. South Triangle
Quezon City

GREETINGS:

You are hereby notified by these presents that on **May 29, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 2, 2026.**

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

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HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila; and HON. REY LEONARDO GUERERRO, Commissioner of Customs, South Harbor, Port Area, Manila,
Respondents.

CTA CASE NO. 10599

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

MAY 2 9 2026; 3:15 PM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Duty and Tax Refund (Petition)*[1] filed by petitioner Millionstar Grains Corporation (**petitioner**) on July 28, 2021, seeking a refund of allegedly overcharged customs duty amounting to PHP 5,809,915.99.

THE PARTIES

Petitioner Millionstar Grains Corporation, represented by its President Ms. Jaena Bautista-Manuntag, is a corporation duly registered and existing under Philippine laws.[2]

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1 Docket – Vol. I, pp. 7-10.
2 *Id.* at 436, Joint Stipulation of Facts and Issues (JSFI), I. Admitted Facts, par. 1.

Respondent District Collector of Customs is responsible for the assessment and collection of customs revenues for imported goods, and other dues, fees, charges, fines, and penalties accruing under Republic Act (**RA**) No. 10863, otherwise known as the Customs Modernization and Tariff Act (**CMTA**).[3]

Respondent Commissioner of Customs (**COC**) is the head of the Bureau of Customs (**BOC**) and is responsible for the assessment and collection of customs revenues on imported goods, and other dues, fees, charges, fines, and penalties accruing under the CMTA.[4]

THE FACTS

From March to April 2021, petitioner made three (3) importations of Vietnam White Rice 5% brokens, covered by three shipments with Entry Numbers C-67686, C-112483, and C-121393.

Shipment with Entry Number C-67686

On March 29, 2021, a shipment of 41,600 bags of Vietnam White Rice 5% brokens, imported by petitioner from Orient Rice Co., Ltd. for USD 457,600, arrived at the Port of Manila.[5]

The initial assessment, using the transactional value method in accordance with Section 701 of the CMTA and the General Agreement on Tariffs and Trade (**GATT**), amounted to PHP 7,790,445.68.[6]

The final assessment, using the reference value in accordance with the Office of the Commissioner (**OCOM**) Memorandum No. 40-2021, amounted to PHP 9,240,252.58, representing an increase of PHP 1,449,806.90 over the initial assessment.[7]

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[3] *Id.* at 437, JSFI, I. Admitted Facts, par. 2
[4] *Id.*, JSFI, I. Admitted Facts, par. 3.
[5] *Id.*, JSFI, I. Admitted Facts, par. 4; 484, Exhibit "P-5".
[6] *Id.*, JSFI, I. Admitted Facts, par. 5; 473, Exhibit "P-1"; 476, Exhibit "P-2".
[7] *Id.*, JSFI, I. Admitted Facts, par. 6; 479, Exhibit "P-3".

Shipment with Entry Number C-112483

On April 29, 2021, a shipment of 83,200 bags of Vietnam White Rice 5% brokens, imported by petitioner from Orient Rice Co., Ltd. for USD 936,000.00, arrived at the Port of Manila.[8]

The initial assessment, using the transactional value method in accordance with Section 701 of the CMTA and GATT, amounted to PHP 15,902,391.40.[9]

The final assessment, using reference value in accordance with OCOM Memorandum No. 61-2021, amounted to PHP 18,619,930.22, representing an increase of PHP 2,717,538.82 from the initial assessment.[10]

Shipment with Entry Number C-121393

On April 29, 2021, another shipment of 83,200 bags of Vietnam White Rice 5% brokens, imported by petitioner from Orient Rice Co., Ltd. for USD 936,000.00, arrived at the Port of Manila.[11]

The initial assessment, using the transactional value method in accordance with Section 701 of the CMTA and GATT, amounted to PHP 15,877,135.20.[12]

The final assessment, using reference value in accordance with OCOM Memorandum No. 68-2021, amounted to PHP 17,519,705.47, representing an increase of PHP 1,642,570.27 from the initial assessment.[13]

Petitioner paid all the foregoing assessments under protest[14] and filed the corresponding *Protests* before respondent

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[8] *Id.*, JSFI, I. Admitted Facts, par. 7; 485, Exhibit "P-11"; 487, Exhibit "P-12".
[9] *Id.* at 438, I. Admitted Facts, par. 8; 474, Exhibit "P-7"; 477, Exhibit "P-8".
[10] *Id.*, JSFI, I. Admitted Facts, par. 9; BOC Records, p.16, Exhibit "P-9"
[11] *Id.*, JSFI, I. Admitted Facts, par. 10; 486, Exhibit "P-18"; 488, Exhibit "P-19".
[12] *Id.*, JSFI, I. Admitted Facts, par. 11; 475, Exhibit "P-14"; 478, Exhibit "P-15".
[13] *Id.*, JSFI, I. Admitted Facts, par. 12; 480, Exhibit "P-16".
[14] *Id.*, JSFI, I. Admitted Facts, par. 13; 481, Exhibit "P-4"; 482, Exhibit "P-10"; 483, Exhibit "P-17.

COC,[15] allegedly on March 29, 2021, April 29, 2021, and May 12, 2021.[16]

PROCEEDINGS BEFORE THE COURT

Having received no response to its protests, on July 28, 2021, petitioner filed the instant *Petition for Duty and Tax Refund.*[17]

A *summons* was issued on September 15, 2021, directing respondents to file their Answer.[18] On November 5, 2021, respondents filed their *Motion for Extension of Time to File Answer,*[19] which the Court granted in an *Order* dated November 22, 2021.[20]

On December 3, 2021, respondents filed their *Answer.*[21] This was followed by petitioner's filing of a *Reply of Petitioner to Respondent COC's Answer [Re: Petition for Duty and Tax Refund dated 25 June 2021]* on January 4, 2022.[22]

The Pre-Trial Conference was initially set on March 23, 2022.[23] On said date, however, counsels for both parties failed to appear. Consequently, the case was dismissed without prejudice in an Order dated March 23, 2022.[24]

On March 31, 2022, the Court received petitioner's *Urgent Motion to Reset Pre-Trial Conference,* which was filed via registered mail on March 21, 2022.[25] Considering the dismissal, petitioner later filed its *Manifestation and Motion for Reconsideration [Re: Order of Dismissal without Prejudice of March 23, 2022]* on May 6, 2022,[26] to which respondents filed their *Comment (Re: Petitioner's Manifestation and Motion for Reconsideration dated April 29, 2022).*[27]

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[15] *Id.*, JSFI, I. Admitted Facts, par. 13.
[16] *Id.* at 7, Petition for Duty and Tax Refund, par. 2.
[17] *Id.* at 7-10.
[18] *Id.* at 59.
[19] *Id.* at 61-64.
[20] *Id.* at 68.
[21] *Id.* at 81-91.
[22] *Id.* at 70-78.
[23] *Id.* at 116-117.
[24] *Id.* at 120.
[25] *Id.* at 121-123.
[26] *Id.* at 127-129.
[27] *Id.* at 168-172.

On August 2, 2022, the Court issued a *Resolution* granting petitioner's *Manifestation and Motion for Reconsideration [Re: Order of Dismissal without Prejudice of March 23, 2022].* Thus, the *Order* dated March 23, 2022, was set aside, and the case was set anew for a pre-trial conference on October 17, 2022.[28]

On October 7, 2022, petitioner filed a *Manifestation,*[29] together with Atty. Manuel R. Castro's *Notice of Withdrawal of Counsel.*[30] The Court noted this in a *Resolution* dated October 17, 2022.[31] Petitioner was then given 60 days from notice to inform the Court of the name, address, and contact information of the new counsel.[32]

Meanwhile, respondents filed their *Pre-Trial Brief* on October 17, 2022.[33]

On January 6, 2023, petitioner's new counsel, Atty. Camille S. Palma filed her *Formal Entry of Appearance.*[34] The Court noted this in a *Resolution* dated January 9, 2023.[35] However, on March 1, 2023, Atty. Palma filed a *Motion to Withdraw Appearance for Cause.*[36] On March 9, 2023, petitioner filed a *Manifestation.*[37] Consequently, petitioner was given 60 days from notice to inform the Court of the name, address, and contact information of the new counsel in a *Resolution* dated March 29, 2023.[38]

A *Records Verification* dated June 29, 2023, revealed that petitioner failed to comply,[39] leading the Court, in a *Resolution* dated July 13, 2023, to issue a show cause order.[40]

Another Records Verification dated July 10, 2023, revealed that respondents failed to elevate the BOC records.[41] Considering such, the Court, in a *Resolution* dated July 25, 2023, ordered Associate Solicitor Kevin Yuri C. Chan to show

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[28] *Id.* at 182-186.
[29] *Id.* at 190-191.
[30] *Id.* at 188-189.
[31] *Id.* at 246-247.
[32] *Id.* at 248-251.
[33] *Id.* at 192-197.
[34] *Id.* at 255-256.
[35] *Id.* at 257.
[36] *Id.* at 259-261.
[37] *Id.* at 262.
[38] *Id.* at 264-265.
[39] *Id.* at 271.
[40] *Id.* at 276-277.
[41] *Id.* at 272.

cause why he should not be cited for indirect contempt for failure to comply with the *Order* dated November 22, 2021.[42]

On August 11, 2023, respondents filed their *Compliance (Re: The Honorable Court's Resolution dated 25 July 2023)*,[43] which was noted and deemed sufficient by the Court on August 17, 2023.[44]

On August 16, 2023, an *Entry of Appearance* was filed by Atty. Maia Chiara Halmen Reina A. Valdez of Valdez Law & Associates as counsel for petitioner.[45] The Court noted this on August 29, 2023.[46] On October 13, 2023, petitioner filed a *Manifestation (with attached Secretary's Certificate)*,[47] which was noted by the Court in a *Resolution* dated October 24, 2023.[48]

On February 1, 2024, the pre-trial conference was conducted,[49] during which the parties were directed to submit a Joint Stipulation of Facts and Issues (***JSFI***).[50] The parties complied and filed the JSFI on March 4, 2024.[51] The Court approved the same in a *Resolution* dated April 4, 2024, [52] and thereafter promulgated the *Pre-Trial Order* on April 8, 2024.[53]

Trial ensued.

During the October 2, 2024 hearing, petitioner presented Mr. Mertalla, who testified through his judicial affidavit.[54] Petitioner filed its *Formal Offer of Evidence* on October 7, 2024,[55] to which respondents filed their *Comment/Opposition (Re: Petitioner's Formal Offer of Evidence)* on October 11, 2024.[56] On January 28, 2025, the Court resolved to admit petitioner's exhibits.[57]

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42 *Id.* at 280.
43 *Id.* at 281-284.
44 *Id.* at 388.
45 *Id.* at 385-386.
46 *Id.* at 393-394.
47 *Id.* at 403-404.
48 *Id.* at 411.
49 *Id.* at 415-418.
50 *Id.* at 415-418.
51 *Id.* at 436-447.
52 Docket – Vol. II, p. 504.
53 *Id.* at 513-530.
54 *Id.* at 562-563.
55 *Id.* at 569-576.
56 *Id.* at 580-585.
57 *Id.* at 594-596.

On January 30, 2025, respondents presented their witnesses: Mr. Basset G. Lucman, Mr. Greg J. Serrano, and Ms. Jenalline M. Garcia, all of whom testified through their respective judicial affidavits.[58] Respondents filed their *Formal Offer of Evidence* on February 5, 2025,[59] to which petitioner filed its *Comment/Opposition (to Respondent's Formal Offer of Evidence)* on February 10, 2025.[60] On May 9, 2025, the Court resolved to admit respondents' exhibits.[61]

Petitioner[62] and respondents[63] filed their *Memoranda* on June 16, 2025.

The case was submitted for decision on July 10, 2025.[64]

THE ISSUE

The issue submitted for the resolution of the Court, as stipulated by the parties, is as follows:

> WHETHER THE PETITIONER IS ENTITLED TO A REFUND OF ITS CLAIM FOR OVERPAYMENT OF CUSTOMS DUTY AND TAXES ON ITS SUBJECT RICE SHIPMENT. [65]

PETITIONER'S ARGUMENTS

In its *Petition* [66] and *Memorandum*,[67] petitioner argues that it is entitled to a refund. Petitioner maintains that respondents should have used Method One, or the Transaction Value Method, in valuing its importation of Vietnam Rice, in accordance with Article VII of the GATT.

Petitioner argues that the value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be determined based on the value

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[58] *Id.* at 598-600.
[59] *Id.* at 605-608.
[60] *Id.* at 614-618.
[61] *Id.* at 630-632.
[62] *Id.* at 633-644.
[63] *Id.* at 649-663.
[64] *Id.* at 669.
[65] Docket – Vol. I, p. 439, JSFI, II. Issue.
[66] *Id.* at 7-10.
[67] Docket – Vol. II, pp. 633-644.

of merchandise of national origin, nor on arbitrary or fictitious values.

Petitioner further states that the basic principle in valuation, as provided under Section 701 of the CMTA and the GATT, is to use the transaction value of the shipment or goods, which is generally shown on the shipment invoice. According to petitioner, its presentation of the commercial invoices should have been sufficient to justify the application of Method One.

Petitioner additionally posits that respondents had no legal basis to use Method Three. According to petitioner, the application of Method Three "presupposes that Methods [One] and [Two] are insufficient to determine the dutiable value," and that there is no showing of such. Petitioner suggests that the values in the pertinent OCOM Memorandum "were whimsically and capriciously stated."

RESPONDENTS' ARGUMENTS

In their *Answer*[68] and *Memorandum*,[69] respondents argue that the *Petition* should be dismissed for failure to comply with the formal requisites under the Rules of Civil Procedure. According to respondents, petitioner "entirely failed to: (a) indicate the material dates to prove that the *Petition* was filed on time; (b) set forth a concise statement of facts and of the case; (c) raise specific legal issue or issues for the consideration of the Court; (d) specify the errors of fact or law allegedly committed by Respondent COC; (e) propound sound legal arguments as grounds for the allowance of the petition; (f) attach certified true copies of the assailed judgments or final orders; and (g) attach copies of material portions of the record to support the allegations made in the petition."

Respondents also maintain that they correctly assessed petitioner's shipments using Method Three under Section 703 of the CMTA. Respondents allege that petitioner failed to prove compliance with the requirements for the application of Method One under Section 701 of the CMTA. According to respondents, Method Two is likewise inapplicable, as resort to Method Two requires "not only the comparison of the documents of the

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[68] Docket – Vol. I, pp. 81-91.
[69] Docket – Vol. II, pp. 649-663.

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shipments, but also the physical examination of all the shipments."

Finally, respondents allege that the *Petition for Duty and Tax Refund* was filed belatedly. They argue that petitioner had only 30 days from April 28, 2021, or until May 28, 2021, to file the *Petition.*

THE COURT'S RULING

The Court has no jurisdiction over the instant Petition for Duty and Tax Refund.

At the outset, the Court must first determine whether it has jurisdiction over the subject matter. Jurisdiction is a threshold issue; in the absence thereof, the Court cannot proceed to resolve the case on the merits.

Under Section 7(a)(4) of Republic Act (**RA**) No. 1125,[70] as amended by RA No. 9282,[71] the Court of Tax Appeals (**CTA**) is vested with exclusive appellate jurisdiction to review *decisions* of the COC in cases involving liability for customs duties, fees, or other charges, as well as matters arising under customs laws, *viz.*:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> . . . .
>
> (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[.] (Emphasis supplied)

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[70] An Act Creating the Court of Tax Appeals, June 16, 1954.

[71] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

Corollary thereto, Section 11 of the same law provides that an appeal may be taken within thirty (30) days from receipt of the decision or ruling, or "after the expiration of the period fixed by law for action":

> 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 [COC] ...**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 Section 7(a)(2) herein. **...** (Emphasis supplied)

The foregoing provisions are restated in Section 3(a)(4), Rule 4,[72] and Section 3(a), Rule 8[73] of the Revised Rules of the CTA (**RRCTA**).

A plain reading of the above-cited provisions shows that the CTA's jurisdiction over cases involving the COC is limited strictly to the review of ***decisions*** and does not extend to ***inactions.*** This legislative intent becomes evident when Section 7(a)(4) is contrasted with Sections 7(a)(1) and 7(a)(2) of the same law, which expressly confer jurisdiction over both decisions and inactions of the Commissioner of Internal Revenue (**CIR**).

Significantly, while Section 11 of RA No. 1125 mentions appeals taken "*after the expiration of the period fixed by law for action,*" such reference is explicitly tied to Section 7(a)(2), which pertains solely to the CIR's inaction.

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72 *Section 3. Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
. . . .
(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[.]

73 Sec. 3. Who may appeal; period to file petition. — (a) A party adversely affected by a decision, ruling, or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

Accordingly, the CTA has no jurisdiction over petitions premised on the **inaction** of the COC.

This conclusion is reinforced by the relevant provisions of the CMTA and Customs Administrative Order (**CAO**) No. 02-2020, which outline the administrative remedies in customs disputes.[74]

Under Sections 1110 and 1136 of the CMTA, the remedy of appeal to the CTA lies from a ruling or decision of the COC:

> SEC. 1110. Decision in Protest. — When a protest is filed in proper form, the Commissioner shall render a decision **<u>within thirty (30) days from receipt of the protest</u>**. In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary.
>
> . . . .
>
> Sec. 1136. Review by the CTA. - Unless otherwise provided in this Act or by any other law, the party aggrieved by the **ruling or decision** of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act may likewise be appealed to the CTA. ... (Emphasis supplied)

Similarly, CAO No. 02-2020 prescribes a clear and structured administrative process: from the ruling of the District Collector, to a protest before the COC, followed by a motion for reconsideration, and ultimately, an appeal to the CTA.

Sections 6, 10, 11, 12, and 13 of CAO No. 02-2020 provide:

> Section 6. Dispute Settlement Arising from Customs Valuation. —
>
> 6.1. Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the dutiable value of the goods pursuant to Section 707 of the CMTA. **<u>If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal</u>**

[74] Dispute Settlement and Protest.

Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.

6.2. If the District Collector finds that the Valuation Issue involves difficult or highly technical questions relating to the application of customs valuation rules, the following procedures shall be undertaken:

6.2.1. The District Collector shall accordingly inform the importer within two (2) days that the Valuation Issue involves difficult or highly technical questions;

6.2.2. In such case, the District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice;

6.2.3. If the nature of the goods permit, the District Collector shall require the taking of samples subject to verification of the Customs Officer concerned to be returned to the importer upon termination of the dispute settlement;

6.2.4. The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations; and

6.2.5. **The District Collector shall resolve in writing the Valuation Issue within fifteen (15) days from submission of the position papers.**

6.3. If the dispute does not involve difficult or highly technical questions on proper application of methods of valuation and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty-eight (48) hours the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the valuation made by the Customs Officer.

6.4. In case of a ruling adverse to the importer, the importer shall be liable to pay the additional duties and taxes as adjudged or if the goods are released under Tentative Assessment, any posted security shall be made to answer for the deficiency in duties and taxes resulting from the ruling.

6.5. The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.

6.6. **<u>In case the ruling of the Commissioner is adverse to the importer, he may seek reconsideration or appeal the ruling in accordance with this CAO.</u>**

. . . .

Section 10. Protest. —

10.1. The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, **<u>may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment.</u>** Otherwise, the action of the District Collector shall be final and conclusive.

10.2. A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

> 10.3. When a protest is filed in proper form, **the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.**
>
> Section 11. Motion for Reconsideration. — The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, may, within fifteen (15) calendar days, from receipt of the ruling, file a Motion for Reconsideration with the Commissioner.
>
> Section 12. Finality of the Decision. — Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the ruling of the Commissioner shall be final and executory.
>
> Section 13. Appeal. — **An importer aggrieved by the decision of the Commissioner may appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner**. (Emphasis supplied)

Section 13 of CAO No. 02-2020 is explicit that only the decision of the COC may be appealed to the CTA. Reading the provisions sequentially and harmoniously, the "decision" contemplated therein refers to the decision of the COC on the protest in accordance with Section 10.3 or the Motion for Reconsideration filed by the importer in accordance with Section 11.

Notably, Section 10.3 of the same CAO provides for a "deemed affirmation" where the District Collector's ruling is considered affirmed if the COC fails to act on the protest within the prescribed period.

Thus, in light of RA No. 1125, as amended, and the provisions of the CMTA, read in conjunction with CAO No. 02-2020, the Court holds that it has jurisdiction over **petitions grounded on the inaction of the COC, provided it falls under the "deemed affirmation" of the challenged ruling of the District Collector.**

In the present case, petitioner alleges in its *Petition* that it filed *Protests* before the COC but the same remain undecided, hence, the present appeal, *viz.*:

2. That, **on March 29, 2021, April 19, 2021 and May 12, 2021, Petitioner presented its formal Protest and Appeal for Duty and Tax Refund to the good office of the Hon. Commissioner REY LEONARDO GUERRERO**, earnestly demanding and praying for appropriate consideration and expeditious resolution of its request for duty and tax relief, easement from bearing the duty and tax burdens arising out of the excessive charges of customs duty and tax upon its rice shipments be duly acted upon in due time;

A faithful photo reproduction of the Protest and Appeal presented for consideration and resolution which were received by the Bureau of Customs marked CCC-21-040871 dated March 29, 2021, CCC-21-053330 dated April 29, 2021, and CCC-21-059503 dated May 12, 2021, together with its supporting documentary evidences marked as Annexes "1", "2", "2a", "3", "3-a", "4", "4-a', "4-b", and "4-c", which are attached herewith and made as parts and parcels of this Petition;

3. That on separate dates, Petitioner had requested and presented to the Respondents its notices of payments under protests against the valuation and collection made by the Respondent MICP Collection District Officer of the related shipments pointing out the customs duty and tax upon its rice shipments effected and imposed by the MICP Collection District Officer, that do not conform with the applicable Transaction Value System – Method [One as mandated] by [law under Sec. 701], Chapter 1 Title VII of RA No. 10863 – the Customs Modernization and Tariff Act, mandating that the basis of valuation relative thereto shall be the price actually paid or payable for the goods, and not unduly upon the basis of Reference Value when the goods are sold out for export to the Philippines as adjusted accordingly with the conditions set forth under the afore-cited Section 701, which are evidently excessively, unfairly, unjustly, and inequitably charged. ...

. . . .

4. That, despite of the fact of a **palpable lapse of the intervening period**, the herein Petitioner remain to be **adversely affected by the shackles of the inaction of the Respondents** on the disputed or questioned issues of duty/tax valuations or assessments, and on the demanded or claimed refund of the excessive charges of customs duty/tax upon the rice shipments of the Petitioner, not taking any action for just the request of the Petitioner, even just by way of a drawback or credit, adjustment, reduction, or abatement, neither even just by settlement or compromise; hence,

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> substantially by such cause of the inaction of the Respondents, the Petitioner deems it fitting for now to file before this Honorable Court this Petition in pursuance to Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals, as amended[.] [75] (Emphasis supplied)

The records show that the *Protests* were not offered in evidence. Nonetheless, the fact of payment under protest[76] and the fact of filing the *Protests*[77] were admitted in the JSFI. As to the dates of filing of the *Protests*, respondent is deemed to have admitted the same for his failure to properly specifically deny such material facts in its *Answer*. The COC denied the allegation, in this wise:

> 2. Respondent COC specifically denies paragraphs 2, 3, 4 and 5 of the petition for the reasons herein provided.[78]

The subsequent averments in the *Answer*, however, failed to state the basis of respondent's denial of the alleged date when petitioner "presented its formal Protest and Appeal for Duty and Tax Refund to the good office of the Hon. Commissioner REY LEONARDO GUERRERO". The *Answer* focused on respondent's perceived non-compliance with the formal and substantial requirements under Rule 42 of the Rules of Court of petitioner's *Petition,* without stating the correct filing date of the *Protests* if the alleged date were incorrect or alleging that no such *Protests* were actually filed.

Under Rule 8, Section 10 of the Rules of Court, a party must specify each material allegation of fact the truth of which it cannot admit and, whenever practicable, shall set forth the substance of the matter upon which it relies to support its denial. Where a party is without knowledge or information sufficient to form a belief as to the truth of a material averment made, it shall so state, and this shall have the effect of a denial. Allegations not specifically denied are deemed admitted.[79]

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75 Docket – Vol. I, pp. 7-8, Petition for Duty and Tax Refund, pars. 2, 4.
76 *Id.* at 438, JSFI, I. Admitted Facts, par. 13; 481, Exhibit "P-4"; 482, Exhibit "P-10"; 483, Exhibit "P-17.
77 *Id.* at 438, JSFI, I. Admitted Facts, par. 13.
78 *Id.* at 104, Answer, par. 2.
79 Rule 8, Section 11, Rules of Court.
Sec. 11. Allegations not specifically denied deemed admitted. – Material averments in a pleading asserting a claim or claims, other than those as to the amount of unliquidated damages, shall be deemed admitted not specifically denied.

Denials based on lack of knowledge or information of matters clearly known to the pleader, or ought to be known to it, or could have easily been known by it are insufficient, and constitute ineffective or sham denials.[80] Here, the COC ought to know or could have easily known the actual date of filing of the *Protests* before him, but the *Answer* did not specifically deny such material averment. Hence, he is deemed to have admitted the dates of the filing of the protests as alleged in the *Petition.*

Nonetheless, as the *Protests* were not offered in evidence, the Court cannot determine whether they were made in proper form as mandated under Section 10 of CAO No. 02-2020. Petitioner also did not mention if the *Protests* with the COC were made within 15 days from its receipt of the adverse ruling of the District Collector or from payment, as a result of the adverse ruling. Hence, the Court cannot determine if the *Protests* were timely filed.

Assuming that the *Protests* were timely filed and made in proper form, based on the alleged dates of the *Protests,* petitioner at the latest had until **July 11, 2021** to appeal before the CTA:

Alleged Date of Protest, deemed admitted	End of 30-day period for the COC to act on the Protest	End of 30-day period to file Petition for Review with the CTA	Date of Filing of the Present *Petition*
March 29, 2021	April 28, 2021	May 28, 2021	
April 19, 2021	May 19, 2021	June 18, 2021	**July 28, 2021**
May 12, 2021	June 11, 2021	July 11, 2021	

Clearly, the present *Petition* was filed out of time.

The **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. [81]

[80] *Fernando Medical Enterprises, Inc. v. Wesleyan University Philippines, Inc,* G.R. No. 207970, January 20, 2016 [Per J. Bersamin, First Division].

[81] *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010 [Per J. Mendoza, Second Division].

Further, the right to appeal to the CTA from a decision of the COC is merely a statutory privilege, not a constitutional right. The exercise of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise.[82]

WHEREFORE, premises considered, the present *Petition for Duty and Tax Refund* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

(With Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

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82 *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 295360 *et al.*, 19 February 19, 2014 [Per J. Villarama, First Division].

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Special First Division Acting 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.

Ma. Belen S-L

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL FIRST DIVISION

MILLIONSTAR GRAINS CORPORATION, represented by its President, MS. JAENA BAUTISTA-MANUNTAG,
Petitioner,

- versus -

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila; and HON. REY LEONARDO GUERERRO, Commissioner of Customs, South Harbor, Port Area, Manila,
Respondents.

CTA CASE NO. **10599**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
MAY 2 9 2026 ; 3:15PM

x - x

SEPARATE OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Lanee S. Cui-David, in dismissing the Petition for Review for lack of jurisdiction on the finding that the judicial appeal was filed out of time. Nonetheless, with due respect, I am constrained to withhold my concurrence on the *ponente's* discussion that the Court of Tax Appeals' (CTA's) jurisdiction does not extend to the Commissioner of Customs' (COC's) inactions.

Section 1126 of the Customs Modernization and Tariff Act[1] (**CMTA**) *vis-à-vis* Sections 10.1 and 10.3 of Customs Administrative Order (**CAO**) No. 02-2020[2] provide –

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[1] AN ACT MODERNIZING THE CUSTOMS AND TARIFF ADMINISTRATION.
[2] DISPUTE SETTLEMENT AND PROTEST.

CMTA

...

SEC. 1126. *Appeal to the Commissioner.* – In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days or five (5) days in case of perishable goods, from receipt of the decision, file a written notice of appeal, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records, or fifteen (15) days in the case of perishable goods: *Provided*, **That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed**. An appeal filed beyond the period herein prescribed shall be dismissed.[3]

...

CAO No. 02-2020

...

Section 10. Protest.

10.1. The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment. Otherwise, the action of the District Collector shall be final and conclusive.

...

10.3. When a protest is filed in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. **Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.**[4]

...

Based on the foregoing provisions, a person aggrieved by the decision of the District Collector may elevate an appeal to the COC within fifteen (15) days from the receipt of the assailed decision. The COC shall have thirty (30) days from the receipt of the records to decide on the case. If no such decision is rendered within the said 30-day period, the decision of the District Collector shall be deemed affirmed. This "deemed affirmed" provision of the law is precisely the result of the COC's failure to act on the appeal within the statutory period. Simply put, it is an inaction of the COC that is appealable to this court.

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[3] Italics in the original text and emphasis supplied.
[4] Emphasis in the original text and supplied.

Thus, in my humble opinion, it is difficult to subscribe to a sweeping declaration that the CTA's jurisdiction does not extend to the COC's inaction, most especially when the instant case was primarily resolved on the determination that the COC failed to act on the Protests and Appeals filed before it. Indeed, the issue before Us stemmed directly from such inaction.

Moreover, this Court cannot proceed on the assumption that there may be circumstances, other than a protest against the District Collector's assessment, valuation, or decision under Section 1126 of the CMTA, in which the COC may fail to act and yet such inaction would fall outside this Court's cognizance. Any pronouncement on that matter would be premature and speculative.

It is only when an actual case or controversy involving the COC's inaction on a different matter is properly brought before the Court that the issue may be resolved, having then become ripe for judicial determination. A case is ripe for adjudication when the challenged governmental act is a completed action such that there is a direct, concrete, and adverse effect on the party seeking relief.[5] Accordingly, judicial intervention is warranted only when there exists a completed governmental act or omission and the petitioner demonstrates an actual, immediate, or threatened injury arising therefrom.[6]

With the foregoing, I **CONCUR IN THE RESULT** and I vote to **DISMISS** the Petition for Review for lack of jurisdiction.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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5 *Kilusang Mayon Uno, et al. v. Hon. Benigno Simeon C. Aquino III, et al.*, G.R. No. 210500, 02 April 2019.
6 See *Kilusang Mayon Uno, et al. v. Hon. Benigno Simeon C. Aquino III, et al.*, id.