REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RONAVIE RENON KAMATA, represented by her Attorney-in-Fact NESTOR P. IFURUNG,
Petitioner,

- versus –

COMMISSIONER OF CUSTOMS,
Respondent.

CTA Case No. 8845

Members:

CASTAÑEDA, JR., *Chairperson, and*
CASANOVA, *JJ.*

Promulgated:

SEP 26 2016
10:30 a.m.

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DECISION

CASTAÑEDA, JR., *J.:*

THE CASE

Before this Court is a Petition for Review[1] filed by petitioner Ronavie Renon Kamata on July 8, 2014 which seeks the reversal of the Decision dated May 16, 2014 of respondent Commissioner of Customs (the "assailed Decision") which, in turn, dismissed petitioner's appeal of NAIA District Collector's Decision dated May 31, 2013 forfeiting the amount of ₱286,000.00 Philippine Peso and ¥2,840,000.00 Japanese Yen (the "subject currencies") in favor of the Government.

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[1] Docket, Vol. I, pp. 6-37.

THE FACTS

On June 8, 2012, petitioner Ronavie Renon Kamata was about to depart for Narita, Japan *via* Japan Airlines (JAL) Flight 742, when she was intercepted by the airport authorities at the Final Check of the Departure Area, Ninoy Aquino International Airport (NAIA) Terminal 1 as she was suspected to be carrying in her hand carried bag huge amount of cash.[2]

Mr. Cabib U. Ampaso, Acting Customs Examiner at the Departure Operations Division, Bureau of Customs-Ninoy Aquino International Airport (BOC-NAIA), made an initial examination of petitioner's hand carried bag and found therein bundles of Japanese Yen and Philippine Peso.[3] Considering the volume of the currencies found, Mr. Ampaso informed her that the same is in violation of existing BSP Circulars on the transport of Philippine and foreign currencies.[4]

Petitioner's hand carried bag, upon further examination and inventory thereof made by Mr. Ampaso, was found to contain Two Hundred Ninety Six Thousand Philippine Pesos (₱296,000.00) and Three Million Six Hundred Twenty Thousand Japanese Yen (¥3,620,000.00).[5] The amount of Ten Thousand Philippine Pesos (₱10,000.00), and Seven Hundred Eighty Thousand Japanese Yen (¥780,000.00) equivalent to Ten Thousand US Dollars (US$10,000.00), were returned to petitioner.[6] The remaining amount of Two Hundred Eighty Six Thousand Philippine Pesos (₱286,000.00) and Two Million Eight Hundred Forty Thousand Japanese Yen (¥2,840,000.00) were seized and turned over to the In Bond Division under Held Baggage Receipt (HBR) No. 00302346,[7] and subsequently transmitted to the Customs Cashier on duty at NAIA Terminal 1 for custody and safekeeping.

Mr. Ampaso submitted an Incident Report dated June 8, 2012[8] addressed to Ms. Teresita S. Roque, Deputy Collector for Passenger Service, BOC-NAIA, through Collector Guillermo A. Francia IV, Chief of Departure Operations Division. Attached to the Incident Report are

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[2] Exhibit "P-8", Docket, Vol. I, p. 315.
[3] *Ibid.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] Exhibit "P-20", Docket, Vol. I, p. 329.
[8] Exhibit "P-8", Docket, Vol. I, p. 315.

the copies of HBR No. 00302346, Currency Inventory Report as well as photocopies of petitioner's passport and JAL Boarding Pass.[9]

Through a 1st Indorsement dated June 8, 2012,[10] Collector Guillermo A. Francia IV recommended to District Collector Carlos T. So, District Collector, BOC-NAIA, the issuance of a Warrant of Seizure and Detention (WSD) against the seized Philippine pesos for violation of Section 4, *Bangko Sentral ng Pilipinas* (BSP) Circular No. 1389, series of 1993, as amended by BSP Circular No. 98, series of 1995; and against the seized Japanese Yen for violation of BSP Circular No. 308, series of 2001, as amended by BSP Circular No. 507, series of 2006, in relation to Section 2530(f) of the Tariff and Customs Code, as amended (TCCP).

Through a 2nd Indorsement dated June 11, 2012,[11] Collector Teresita S. Roque concurred with Collector Francia's recommendation for the issuance of a WSD against the subject currencies.

On June 18, 2012, District Collector Carlos T. So issued a WSD, docketed as Seizure Identification No. 010-2012, against the subject currencies.[12]

After trial in the seizure and forfeiture proceeding docketed as Seizure Identification No. 010-2012, the District Collector of NAIA rendered a Decision dated May 31, 2013, ordering the forfeiture of the subject currencies in favor of the Government for violation of BSP Circular No. 1389, series of 1993, as amended by BSP Circular No. 98, series of 1995 for the Philippine Peso, and BSP Circular No. 308, series of 2001, as amended by BSP Circular No. 507, series of 2006 for the Japanese Yen, (the "BSP Circulars") both in relation to Section 2530(f) of the TCCP.[13]

Petitioner, through counsel, duly filed a Notice of Appeal dated June 11, 2013, assailing NAIA District Collector's Decision for being contrary to evidence, law and jurisprudence.[14]

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[9] *Ibid.*
[10] Exhibit "P-9", Docket, Vol. I, p. 316.
[11] Exhibit "P-10", Docket, Vol. I, p. 317.
[12] Exhibit "P-15", Docket, Vol. I, pp. 322-323.
[13] Exhibits "P-5 and "P-6", Docket, Vol. I, pp. 305-313.
[14] Exhibit "P-7", Docket, Vol. I, p. 314.

In a 1st Indorsement dated July 4, 2013, NAIA District Collector forwarded to the Office of the Commissioner the case folder of Seizure Identification No. 010-2012, together with the copy of his Decision dated May 31, 2013.[15]

On the other hand, in a 2nd Indorsement dated July 10, 2013, respondent's office forwarded to the Deputy Commissioner, RCMG (Attention: Director of the Legal Service), for review the 1st Indorsement dated July 4, 2013 of NAIA District Collector, together with the latter's Decision dated May 31, 2013.[16]

On May 21, 2014, respondent issued the assailed Decision dismissing petitioner's appeal of NAIA District Collector's Decision dated May 31, 2013 forfeiting the subject currencies in favor of the Government.[17]

On July 8, 2014, the present Petition for Review was filed before this Court.

On July 30, 2014, respondent filed a Motion for Extension of Time to File Answer praying that he be given an additional time of thirty (30) days from August 2, 2014 or until September 1, 2014 within which to file his Answer.[18]

Through an Order dated August 11, 2014,[19] this Court granted the said Motion. In the same Order, this Court likewise directed the respondent to forward to the Court its entire records of the present case, pursuant to Section 5(b), Rule 6 of the Revised Rules of the Court of Tax Appeals (RRCTA).

On September 1, 2014, respondent filed his Answer.[20]

The case was set for Pre-Trial Conference on October 9, 2014.[21] On September 5, 2014, Atty. Agnes D. Domines, Chief of the

[15] BOC Records, p. 118.
[16] Exhibit "P-4", Docket, Vol. I, p. 304.
[17] Exhibits "P-1", "P-2" and "P-3", Docket, Vol. I, pp. 296-303.
[18] Docket, Vol. I, pp. 124-126.
[19] *Ibid.*, p. 128.
[20] *Id.*, pp. 129-143.
[21] *Id.*, p. 146.

Law Division, BOC-NAIA, forwarded the records of Seizure Identification No. 010-2012 to this Court.[22]

Respondent filed his Pre-Trial Brief[23] on September 30, 2014 while petitioner filed her Pre-Trial Brief[24] on October 3, 2014.

On October 3, 2014, petitioner likewise filed a Motion for the Issuance of Subpoena Duces Tecum and/or Production of Documents to be directed to the Monetary Board and to the National Printing Office.[25] This Court denied the said Motion during the hearing dated October 9, 2014.[26]

On March 9, 2015, this Court issued a Pre-trial Order.[27]

During trial, petitioner presented Nestor P. Ifurung, Mr. Dante N. Aladano and Atty. Emmanuel Relorcasa as her witnesses while respondent, on the other hand, presented Mr. Cabib U. Ampaso and Ms. Majella L. Finuliar as witnesses.

Petitioner filed her Formal Offer of Evidence[28] on June 23, 2015. In the Resolution[29] dated September 14, 2015, this Court admitted, as petitioner's evidence, Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-13", "P-14", "P-15", "P-16", "P-17", "P-18", "P-19", "P-20", "P-21", "P-22", "P-23", "P-24", "P-25", "P-26", "P-27", "P-28", "P-29", "P-30", "P-31", "P-32", "P-33", "P-34", "P-35", "P-36", "P-37", "P-38" and "P-39".

Respondent, on the other hand, filed his Formal Offer of Evidence on November 2, 2015.[30] In a Resolution dated January 4, 2016, this Court admitted Exhibits "R-1", ""R-1-A", "R-9" and "R-9-1" but denied the admission of Exhibits "R-2", "R-2-A", "R-2-B", "R-3", "R-4", "R-5", "R-6" and "R-7" on the ground that the said exhibits, with their proper marking, cannot be found in the records of the case.[31] ℊ

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[22] *Id.*, p. 147.
[23] *Id.*, pp. 149-153.
[24] *Id.*, pp. 155-167.
[25] *Id.*, pp. 168-170.
[26] Minutes of the Hearing dated October 9, 2014, Docket, Vol. I, p. 198.
[27] Docket, Vol. I, pp. 231-236.
[28] *Ibid.*, pp. 286-295.
[29] *Id.*, pp. 445-446.
[30] Docket, Vol. II, pp. 452-458.
[31] *Ibid.*, pp. 467-468.

On February 9, 2016, respondent filed his Memorandum[32] while petitioner failed to file her Memorandum, as per the report of the Records Division of this Court dated February 26, 2016.[33]

In a Resolution[34] dated March 3, 2016, the present case was considered submitted for decision.

THE ISSUES

The parties submitted the following issues[35] for this Court's decision:

> 1. Whether under the circumstances, respondent Commissioner of Customs has the authority to forfeit the Philippine Pesos subject of the case;
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> 2. Whether under the circumstances, respondent Commissioner of Customs has the authority to forfeit the Japanese Yen subject of the case;
>
> 3. Whether or not the respondent has the authority to order the forfeiture of the currencies subject of the case; and
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> 4. Whether or not the Bureau of Customs correctly decided to forfeit the subject currencies in favor of the government.

The above-enumerated issues can be simply stated as follows:

"Whether or not the subject currencies are liable to forfeiture in favor of the Government."

[32] *Id.*, pp. 470-489.
[33] *Id.*, p. 492.
[34] *Id.*, p. 493.
[35] Pre-Trial Order, Docket, Vol. I., pp. 231-232.

THE COURT'S RULING

The Petition is denied.

Section 4 of BSP Circular No. 1389, series of 1993, as amended by BSP Circular No. 98, series of 1995, in part, provides:

> "Section 4. Import/Export of Philippine Currency. — No person may import or export nor bring with him into or out of the country, or electronically transfer legal tender Philippine notes and coins, checks, money order and other bills of exchange drawn in pesos against banks operating in the Philippines in an amount exceeding P10,000.00 without authorization by the Bangko Sentral ng Pilipinas. xxx"

The above rule is a clear prohibition against bringing in or out of the Philippine jurisdiction more than Ten Thousand Pesos (₱10,000.00), without first securing the requisite authority from the BSP.

On the other hand, BSP Circular No. 308, series of 2001, reads as follows:

> "Any person who brings into or out of the Philippines foreign currency in excess of US$10,000 or its equivalent is required to declare the same in writing and to furnish information on the source and purpose of the transport of such currency.
>
> Any violation hereof shall be subject to the sanctions provided for in Section 36 of Republic Act No. 7653, <u>without prejudice to the application of remedies and sanctions provided for under customs laws and regulations</u>." *(Underscoring supplied)*

BSP Circular No. 507, series of 2006, amended BSP Circular No. 308, series of 2001, by requiring declaration and the furnishing of source and purpose with respect to importation to and exportation from the Philippines of "other foreign exchange denominated monetary instruments". Je

BSP Circular No. 308, series of 2001, as amended, clearly prohibits the bringing in or out of the Philippine jurisdiction more than Ten Thousand US Dollars (US$10,000.00) or its equivalent in other foreign currencies, without the requisite written declaration as to the source of such currencies as well as the purpose for its transport. The Circular also expressly provides that the violation thereof shall be subject to the penalties provided under Section 36 of Republic Act (RA) No. 7653 and without prejudice to the application of remedies and sanctions provided under customs laws and regulations.

At this juncture, it must be emphasized that the foregoing BSP Circulars, although not statutes, nonetheless have the force and effect of law, having been issued by the BSP pursuant to its supervisory and regulatory powers.[36]

In relation thereto, Section 2530 of the TCCP enumerates the properties subject to forfeiture, the relevant portions of which are quoted as follows:

> "Section 2530. *Property Subject to Forfeiture Under Tariff and Customs Law.* — Any vehicle, vessel or aircraft, cargo, **article and other objects shall, under the following conditions be subjected to forfeiture**:
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> xxx xxx xxx
>
> f. **Any article the importation or exportation of which is effected <u>or attempted contrary to law</u>**, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former;" *(Emphasis and underscoring supplied)*

As can be gleaned from the foregoing provision, even a mere attempt to import or export any article contrary to law constitutes sufficient ground for the forfeiture of such article. *Je*

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[36] *Development Bank of the Philippines, et. al. v. Commission on Audit*, G.R. No. 88435, January 16, 2002, 373 SCRA 356, 380.

In the present case, it was established that petitioner was about to depart for Japan when she was intercepted at the final check of NAIA departure area by the airport authorities and was found to be carrying the subject currencies without the required authority from the BSP for the transport of the Philippine Peso and without submitting a written declaration for the Japanese Yen. Based on these facts, it is clear that there was an attempt on the part of the petitioner to export the subject currencies in violation of the BSP Circulars.

Petitioner posits that respondent erred in declaring that the subject currencies are considered as articles or other objects subject to forfeiture.[37] According to her, if the law intended to forfeit currencies, it [w]ould have expressly stated so.[38] The law enumerated vehicle, vessel or aircraft, cargo, article and other objects which did not include currencies.[39] Petitioner added that the currencies found in her baggage are not dutiable articles, much less can they be considered as "articles of prohibited importation or exportation".[40] Nowhere in the Tariff and Customs Code is currency classified as a good, commodity or merchandise subject to duty and/or import and export tax.[41] Petitioner asserts that currencies are not contraband[s] the possession of which is absolutely prohibited like dangerous drugs.[42]

Petitioner's position lacks basis.

In *Commissioner of Customs v. Caridad Capistrano*,[43] the Supreme Court ruled that Philippine Peso bills are considered "merchandise" or "commodity" which can be subject of importation and exportation and hence, may likewise be subject to forfeiture. The Supreme Court held:

> "**We believe that Philippine peso bills come within the concept of 'merchandise,' as this term is understood in Section 1363(f) of the Revised Administrative Code.** As defined by the same Code, merchandise, when used with reference to importations or exportations, includes goods, wares, and in general *Je*

[37] Docket, Vol. I, p. 19.
[38] *Ibid.*
[39] *Id.*
[40] *Id.*, p. 28.
[41] *Id.*
[42] *Id.*, p. 31.
[43] G.R. No. L-11075, June 30, 1960, 108 Phil. 694, 696-697.

anything that may be the subject of importation or exportation. (Sec. 1419.) It cannot be gainsaid that money may be a commodity — an object of trade.

'Money in the country where it is current, is both a measure of value and a medium of exchange, while in other countries it is a commodity bought and sold in the market, and its value fluctuates in the market like that of other commodities.' (58 C. J. S. 845, citing Richard vs. American Union Bank, 170 N. E. 532, 535, 69 A. L. R. 667.)

In the same manner that in the Philippines the United States dollar bills which have ceased to be legal tender, are considered merchandise, the Philippine peso bills when attempted to be exported, as in the present case, may be deemed to have been taken out of domestic circulation as legal tender and treated as commodity. Hence, they may be forfeited pursuant to Central Bank Circular No. 37 in relation to Section 1363 (f) of the Revised Administrative Code." *(Emphasis supplied)*

In addition, in *Carreon Tong Tek et. al. v. Commissioner of Customs,*[44] the Supreme Court interpreted the term "merchandise of prohibited exportation" as then used under the relevant provision of the Revised Administrative Code of 1917 (the applicable tariff law at that time) as broad enough to embrace not only those already declared prohibited at the time of its adoption but also goods, commodities or articles that may be the subject of activities undertaken in violation of subsequent laws. As held by the Supreme Court:

"Petitioners allege that the term 'merchandise of prohibited exportation' used in Section 1363-(f) of the Revised Administrative Code has its own fixed and definite meaning; that it refers exclusively to those articles specifically declared prohibited by Section 3 of the Philippine Tariff Act of 1909, such as firearms and explosives, obscene and subversive articles, gambling

[44] G.R. No. L-11947, June 30, 1959, 105 Phil. 1071, 1076-1077.

outfits, falsely marked gold and silver articles, adulterated foods, lottery tickets, opium and opium pipes, and as gold bars do not fall under any of the enumeration, they conclude that the aforementioned codal provision cannot be invoked in ordering the forfeiture of the articles in question. We entertain a different view.

It must be remembered that the Revised Administrative Code is a general legislation. As such, it must have been intended to meet not only the peculiar conditions obtaining at the time of its enactment but also designed to comprehend those that may normally arise after its approval. **To our mind, the term 'merchandise of prohibited exportation' used in the code is broad enough to embrace not only those already declared prohibited at the time of its adoption but also goods, commodities or articles that may be the subject of activities undertaken in violation of subsequent laws. Considering that the Central Bank circulars, issued for the implementation of the law authorizing their issuance although by themselves are not statutes, have the force and effect of law (People vs. Que Po Lay, 94 Phil., 640; 50 Off. Gaz., No. 10, p. 4850), the carrying out of transactions or undertakings without complying with the requirements of Circular Nos. 20. 21, and 42 makes these undertakings illegal. And as a natural consequence thereof, the articles involved in such unauthorized ventures become prohibited and, therefore, subject to forfeiture under Section 1363-(f) of the Revised Administrative Code.**" *(Emphasis and underscoring supplied)*

The foregoing pronouncement was reiterated in the case of *Geotina v. The Court of Tax Appeals and Unitrade, Inc.*,[45] where the Supreme Court went on to explain the two (2) categories of "articles of prohibited importation" under the TCCP, to wit:

"4. The tax court thus failed to take note that articles of prohibited importation under section 102 of the code are of two categories, *viz,* those which

[45] G.R. No. L-33500, August 30, 1971, 40 SCRA 362, 379.

> are *absolutely prohibited or more commonly known as contraband*, such as explosives or prohibited drugs, and other articles which are considered *qualifiedly prohibited* referring to those which may be imported subject to certain restrictions or limitations. **But as has been observed, the legal effects of an authorized importation of *qualifiedly prohibited* articles are the same as those of an importation of *contraband*: 'an article imported or attempted to be imported in violation of regulations of the Central Bank is considered an article of prohibited importation and is subject to forfeiture in like manner as an article the importation of which is absolutely prohibited under Section 102 of the Tariff & Customs Code**.'" *(Emphasis supplied and citations omitted)*

Similarly, in the present case, the subject currencies fall under the second category of articles of prohibited importation because the same were attempted to be exported in violation of the BSP Circulars. Consequently, the subject currencies are subject to forfeiture under Section 2530(f) of the TCCP.

Petitioner also claims that in case there is a failure to declare in writing the bringing out of the foreign currency, the effect would be the imposition of fine or imprisonment by the court.[46] In addition, the foreign currency would be prevented from being brought out of the country.[47] According to petitioner, the penalty of forfeiture cannot be imposed on the present case because the BSP Circulars do not provide for the forfeiture of the currencies found to be in violation thereof.[48]

This Court does not agree.

As mentioned earlier, BSP Circular No. 308, series of 2001 expressly provides that the violation thereof shall be subject to the penalties provided under Section 36 of Republic Act (RA) No. 7653. It is also expressly provided that the imposition of such penalties shall be "without prejudice to the application of remedies and sanctions provided under customs laws and regulations." In this Court's view, je

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[46] Docket, Vol. I, p. 21.
[47] *Ibid.*
[48] *Id.*, pp. 29-30.

the "remedies and sanctions provided under customs laws and regulations" being referred to in BSP Circular No. 308, series of 2001 include the penalty of forfeiture provided under Section 2530 of the TCCP.

At any rate, whether or not the BSP Circulars, by themselves, expressly provide for the penalty of forfeiture is of no legal consequence. As discussed earlier, mere attempt to export any article contrary to law constitutes sufficient ground for the forfeiture of such article pursuant to Section 2530(f) of the TCCP. Petitioner missed the point that it is by virtue of Section 2530(f) of the TCCP, and not by the BSP Circulars *per se* that the penalty of forfeiture becomes imposable on the subject currencies. The BSP Circulars, on the other hand, simply serve to support the application of Section 2530(f) of the TCCP on the present case. Stated differently, petitioner's attempt to export the subject currencies contrary to the provisions of the BSP Circulars triggered the application of Section 2530(f) of the TCCP on her case, thus, making the subject currencies liable to forfeiture.

Petitioner likewise contends that the subject currencies are neither of criminal origin nor intended as an instrument for the commission of any crime or any illegal purpose.[49] She maintains that it is her husband who actually owns the subject currencies.[50] She also asserts that she was exonerated from the criminal charge filed against her for violation of Section 2505 of the TCCP.[51]

This Court is not persuaded.

Petitioner's contention that the subject currencies are neither of criminal origin nor intended as an instrument for the commission of any crime or any illegal purpose as well as her husband's alleged ownership of the subject currencies are immaterial in determining whether the subject currencies are liable to forfeiture.

Forfeiture of seized goods in the Bureau of Customs is a proceeding against the goods and not against the owner.[52] It is in the nature of a proceeding *in rem*, i.e., directed against the res or imported articles and entails a determination of the legality of their

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[49] *Id.*, pp. 31-32.
[50] *Id.*
[51] *Id.*
[52] *Asian Terminals, Inc. v. Hon. Helen Bautista-Ricafort*, G.R. No. 166901, October 27, 2006, 505 SCRA 748, 762; *Transglobe International, Inc. v. Court of Appeals*, G.R. No. 126634, January 25, 1999, 302 SCRA 57, 69-70.

importation.[53] 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**.[54]

Petitioner's exoneration from the criminal charges for violation of Section 2505 of the TCCP, likewise, does not affect the liability of the subject currencies to forfeiture. Acquittal in the criminal case does not necessarily constitute a bar to the forfeiture proceedings concerning the goods or articles involved in the criminal case.[55] As aptly explained in *Acting Commissioner of Customs v. Court of Tax Appeals and Charles Andrulis*,[56] viz:

> "Andrulis' acquittal in the criminal charge before the City Fiscal's Office does not operate as *res judicata* in a seizure or forfeiture proceeding. **A distinction exists between the proceedings before the Fiscal which are *in personam* since they are directed against the owner or holder of the thing; whereas, a forfeiture proceeding is one *in rem* directed against the thing itself.**
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> 'There is a split of authority as to whether a former conviction of a criminal offense based upon the same facts amounts to a bar. x x x The authorities are by no means agreed, however, that a prior conviction for a criminal charge bars an action for a forfeiture of property. Thus, it has been held that since the forfeiture proceedings is one *in rem* under which the offense is attached primarily to the thing rather than the offender, the forfeiture proceedings stands independent of, and wholly unaffected by, any criminal proceeding *in personam* and is not barred by a conviction of the individual under a criminal charge.'
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> In a similar vein, it was also held in C.F. Sharp & Co., Inc. vs. Commissioner of Customs, 22 SCRA 765 (1968) that **the result of criminal proceedings in a separate case before a different tribunal, being dependent upon the evidence adduced therein,**

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[53] *Ibid.*
[54] *Id.*
[55] *Carreon Tong Tek, et. al. v. Commissioner of Customs*, supra at Note 43.
[56] G.R. No. L-62636, April 27, 1984, 129 SCRA 70, 77-78.

would not necessarily influence the judgment in a forfeiture proceeding." *(Emphasis supplied and citations omitted)*

Petitioner also argues that her failure to declare the subject currencies is not willful and "was caused by the absence of any notice requiring such declaration posted at conspicuous place at the airport and the failure of the Bureau [of Customs] to provide outgoing passengers with the necessary forms for such declaration x x x."[57]

Petitioner's argument must fail.

In seizure and forfeiture cases, it is not necessary that there was intent to circumvent our statutes.[58] Proof of malice or deliberate intent (mens rea) is not essential in offenses punished by special laws, which are *mala prohibita*.[59] Indeed, criminal intent is not necessary where the acts are prohibited for reasons of public policy.[60] As such, the Court's inquiry should be focused on the question of whether or not the law has been violated. As regards the purported absence of notice, it is enough to say that, in this jurisdiction, ignorance of the law excuses no one from compliance therewith.[61]

Petitioner also maintains that she still had the time and opportunity to make the written declaration for the foreign currency and to secure the required authority from the BSP for the Philippine currency considering that she was still at the final check of NAIA departure area, and not yet "on board" the aircraft, at the time the subject currencies were seized.[62] According to her, she also has the option to leave the subject currencies in the Philippines.[63] Thus, petitioner posits that the seizure of the subject currencies was premature.[64]

Petitioner's argument deserves scant consideration.

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[57] Docket, Vol. I, pp. 32-33.
[58] *Zhongshu Huang and Nga Heong Chong v. Bureau of Customs*, CTA EB No. 451, March 12, 2010.
[59] *Alexander Padilla v. The Hon. Baltazar R. Dizon*, Adm. Case No. 3086, February 23, 1988, 158 SCRA 127, 135; *Zuño, Sr. v. Hon. Baltazar R. Dizon*, A.M. No. RTJ-91-752, June 23, 1993, 223 SCRA 584, 603-604.
[60] *Garcia v. Court of Appeals*, G.R. No. 157171, March 14, 2006, 484 SCRA 617, 623 citing *Ibasco v. Court of Appeals*, G.R. No. 117488, September 5, 1996, 261 SCRA 449, 454.
[61] *People v. Evangeline Siton*, G.R. No. 169364, September 18, 2009, 600 SCRA 476, 490; Article 3, Civil Code.
[62] Docket, Vol. I, pp. 24-25.
[63] *Ibid.*
[64] *Id.*

Section 2535 of the TCCP states:

> "Sec. 2535. Burden of Proof in Seizure and/or Forfeiture. — **In all proceedings taken for the seizure and/or forfeiture of** any vessel, vehicle, aircraft, beast or **articles under the provisions of the tariff and customs laws, the burden of proof shall lie upon the claimant**: Provided, That **probable cause shall be first shown for the institution of such proceedings** and that seizure and/or forfeiture was made under the circumstances and in the manner described in the preceding sections of this Code." *(Emphasis supplied)*

Based on the facts, the requirement of the law that the existence of probable cause should first be shown before seizure of the subject currencies is made and the proceedings for the forfeiture thereof is instituted, had been fully met. When petitioner was intercepted at the final check of NAIA departure area and was found to have in her possession the subject currencies, she cannot produce the required BSP authority for the Philippine Peso and the written declaration for the Japanese Yen. This constituted a *prima facie* evidence, at the very least, of an attempt on the part of petitioner to violate the provisions of the BSP Circulars, and thus, provided sufficient basis for the seizure and forfeiture of the subject currencies. Probable cause for the seizure and forfeiture of the subject currencies having been shown, the burden now lies on the petitioner to prove otherwise. Whether petitioner really has the intent to secure the required authority and written declaration for the export of the subject currencies or to otherwise leave the same in the Philippines, at the time she was intercepted at the final check of NAIA departure area, is for her to prove by the required quantum of evidence. What is clear is that petitioner failed to do any of these.

Finally, petitioner claims that the seizure of the subject currencies is not only oppressive but also unconscionable, if not illegal.[65] Petitioner asserts that the seizure of the subject currencies violated her right to privacy as guaranteed by Article III of the Constitution, which protects the privacy of citizens against unreasonable and unrestrained intrusion by the government.[66]

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[65] *Id.*, p. 34-35.
[66] *Id.*

Petitioner asserts that she has recognized expectation of privacy and likewise maintains that "administrative issuances providing for the security of the airport and its traveling passengers, is not a 'blanket authority' (sic) to conduct searches beyond the search for 'weapons and explosives' for the purpose of uncovering other suspected violations not involving the security of the airport and the traveling passengers."[67]

Petitioner's argument is untenable.

Section 2 of Article III of the 1987 Constitution provides:

> "SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

In *People v. Susan Canton*,[68] the Supreme Court explained what constitutes reasonable or unreasonable search in the following manner:

> "**What constitutes a reasonable or unreasonable search in any particular case is a judicial question, determinable from a consideration of the circumstances involved.** The rule is that the Constitution bars State intrusions to a person's body, personal effects or residence except if conducted by virtue of a valid search warrant issued in compliance with the procedure outlined in the Constitution and reiterated in the Rules of Court.
>
> **The interdiction against warrantless searches and seizures is not absolute.** The recognized exceptions established by jurisprudence are (1) search of moving vehicles; (2) seizure in plain view; (3) customs

[67] *Id.*
[68] G.R. No. 148825, December 27, 2002, 394 SCRA 478, 485.

searches; (4) waiver or consented searches; (5) stop and frisk situations (*Terry search*); and (6) search incidental to a lawful arrest." *(Emphasis supplied and citations omitted)*

In the present case, this Court does not agree with petitioner that the seizure of the subject currencies amounted to an unreasonable intrusion or invasion of her right to privacy. The search and subsequent seizure of the subject currencies were made pursuant to routine airport security procedure which the Supreme Court, in a number of cases,[69] had already recognized as another exception to the prohibition against warrantless searches. On this point, the Supreme Court's pronouncement in *People v. Johnson*[70] is apropos, to wit:

> **"Persons may lose the protection of the search and seizure clause by exposure of their persons or property to the public in a manner reflecting a lack of subjective expectation of privacy, which expectation society is prepared to recognize as reasonable. Such recognition is implicit in airport security procedures.** With increased concern over airplane hijacking and terrorism has come increased security at the nation[']s airports. Passengers attempting to board an aircraft routinely pass through metal detectors; their carry-on baggage as well as checked luggage are routinely subjected to x-ray scans. **Should these procedures suggest the presence of suspicious objects, physical searches are conducted to determine what the objects are. There is little question that such searches are reasonable, given their minimal intrusiveness, the gravity of the safety interests involved, and the reduced privacy expectations associated with airline travel. Indeed, travelers are often notified through airport public address systems, signs, and notices in their airline tickets that they are subject to search and, if any prohibited materials or substances are found, such would be subject to seizure. These announcements place passengers on notice that ordinary constitutional protections against warrantless searches and**

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[69] *People v. Johnson*, G.R. No. 138881, December 18, 2000, 348 SCRA 526; *People v. Susan Canton*, supra; *People v. Suzuki*, G.R. No. 120670, October 23, 2003, 414 SCRA 43, 53-54; *Don Djowel Sales v. People*, G.R. No. 191023, February 6, 2013, 690 SCRA 141, 150; *Edwin Libo-on Dela Cruz v. People*, G.R. No. 209387, January 11, 2016.
[70] Supra.

seizures do not apply to routine airport procedures." *(Emphasis supplied and citations omitted)*

In view of the foregoing, this Court holds that the subject currencies are liable to forfeiture in accordance with Section 2530(f) of the TCCP.

WHEREFORE, premises considered, the present Petition for Review, docketed as CTA Case No. 8845, is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

I CONCUR:

CAESAR A. CASANOVA
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

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