REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

L.T.J.S. STORE, represented by its Owner/Proprietor MR. ANTONIO DE JESUS SILVA,
Petitioner,

CTA CASE NO. 10539

- versus -

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

Members:

CASTAÑEDA, JR., *Chairperson,* and
BACORRO-VILLENA, *JJ.*

Promulgated:

NOV 12 2021

12:15 p.m.

x - x

RESOLUTION

For resolution is respondent Commissioner of Customs' (COC) **Motion to Admit Answer**, filed through registered mail on July 22, 2021 and received by this Court on September 29, 2021.

To recall, the Court issued the Summons for the instant case on May 31, 2021, requiring respondents, within thirty (30) days after notice, to file with the Court and serve on petitioner their Answer to the Petition for Review and stating that if they fail to answer within the time fixed, petitioner will take judgment by default and may be granted the relief applied for in the Petition.

On September 29, 2021, the Court received the instant motion, filed by registered mail on July 22, 2021.

In his motion, respondent COC avers that the Office of the Solicitor General (OSG) received the Summons in the instant case on June 8, 2021. Respondent COC states that since the OSG is not a party to the case, it was deemed prudent by the handling associate solicitor to await the endorsement of the Bureau of Customs (BOC).

Respondent COC alleges that he received the Summons on June 21, 2021 and had thirty (30) days counted therefrom, or until July 21, 2021, to file his Answer. On July 7, 2021, the OSG received the Endorsement letter of the BOC, requesting the OSG to file the Answer on behalf of respondent COC.

He also states that counsel for respondent COC attempted to personally file his Answer before the Court on July 21, 2021. However, while the messenger from the OSG Docket Management Service was on his way to this Court, the Supreme Court issued Memorandum Order 60-2021, suspending work in all NCJR Courts (including in the Court of Tax Appeals) from 12 p.m. onwards due to inclement weather. Due to severe flooding in and around Metro Manila, the assigned messenger was likewise unable to file the Answer through registered mail. Consequently, counsel for respondent COC was constrained to file his Answer on the next working day.

Respondent COC contends that in other cases of procedural infractions which were deliberately committed, the Court has recognized that it is not only a court of Law and Justice but also a court of compassion.[1]

In the interest of justice, and in order for the parties to fully ventilate their arguments in the instant case, the Court grants respondent COC's Motion to Admit Answer. Consequently, the Answer attached to the motion is admitted and made part of the records of this case.

The Court shall now address respondent COC's request for dismissal of the case which is incorporated in his Answer.

---

[1] See: *Col. Lubaton vs. Judge Lazaro, et al.*, A.M. No. RTJ-12-2320, September 2, 2013, citations omitted.

In his Answer, respondent COC contends that petitioner utterly failed to comply and demonstrate even the slightest attempt at compliance with the Revised Rules of the Court of Tax Appeals (RRCTA) and the 1997 Rules of Civil Procedure.

According to respondent COC, petitioner failed to observe the formal and substantial requirements mandated by Rule 42 of the Rules of Court when it filed its three-paged petition pursuant to Rule 8 of the RRCTA. He contends that 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 the public respondent; (e) propound legal arguments relied upon 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.

He avers that aside from identifying the parties to the instant case, petitioner clearly made no reasonable attempt to abide by the established rules of procedure. All petitioner alleged was that it had tried to exhaust all administrative remedies before the respondent COC, a bare and simplistic allegation, to say the least.

Respondent COC further contends that petitioner likewise failed to include a concise statement of facts and that petitioner cannot, and should not, be allowed to use a mere "recapitulation" to satisfy the requirement that the petition for review must clearly set forth the matters of fact involved.

According to respondent COC, most fatal to petitioner's cause is the failure to indicate the specific material dates relative to its Petition, i.e., when each valuation and collection by the Manila International Container Port (MICP) Collections District Officer was made; the exact date of filing of each Protest; and the exact period of inaction by respondent COC.

He avers that the failure to specify the material dates unduly deprives this Court of a proper determination as to the timeliness of the present appeal. Such omission cannot simply be swept aside as it goes into the merits (and not merely the form) of the Petition.

Respondent COC also contends that petitioner failed to raise a central issue for the Court to hone in on and to resolve. By failing to raise an issue or issues, the Court, and even respondent COC, is kept in the dark and must now guess at which particular provision of law petitioner claims to have been violated by him. In other words, petitioner failed to clearly assign errors of fact or law which would warrant a review by the Court.

Finally, respondent COC avers that instead of setting forth intelligible, legal arguments, petitioner simply stated that the customs duties and taxes imposed upon its rice shipments are "evidently excessively, unfairly, unjustly, and inequitably charged." In essence, petitioner failed to allege and substantiate any error on his part when he refused to apply the transactional value system under Section 701, Chapter 1 Title VII of the Customs Modernization and Tariff Act.

Accordingly, his purported inaction is irrelevant because petitioner's claim for refund has no basis in the first place. Pursuant to Section 3, Rule 42 of the 1997 Rules of Civil Procedure, the instant Petition deserves to be dismissed for utter lack of legal basis and for failure to comply with the pertinent rules of procedure.

Thus, respondent COC prays that the Court dismiss the present Petition for being filed in violation of the 1997 Rules of Civil Procedure and the RRCTA.

At the outset, it must be noted that Section 114, Chapter II, Title I of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) provides:

> "Sec. 114. *Right of Appeal, Forms and Ground.* – Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.
>
> An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.

The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal."

Implementing Section 114, Chapter II, Title I of the CMTA is Customs Administrative Order (CAO) No. 02-2020[2], which was likewise invoked by petitioner in its protest before respondent COC, states:

"**Section 6. Dispute Settlement Arising from Customs Valuation**.

6.1. Upon lodgment 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. If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal 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

[2] SUBJECT: DISPUTE SETTLEMENT AND PROTEST

(5) days from 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. 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.

xxx xxx xxx

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.

10.2. 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 said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner." (*Underscoring supplied*)

As may be gleaned from the foregoing, an importer that does not agree to the valuation made by a Customs Officer pursuant to Section 707[3] of the CMTA may elevate the matter to the principal

---

[3] SEC. 707. *Ascertainment of the Accuracy of the Declared Value.* – Nothing in this section shall be construed as restricting or calling into question the right of the Bureau to ascertain the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and when the Bureau has reason to doubt the truth or accuracy of the particulars or of documents produced in support of such declaration, it may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Section 701 of this Act.

If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon posting of a sufficient security in an amount equivalent to the duties and taxes in dispute conditioned on the payment of additional duties and taxes, if any, as may be determined: *Provided,* That prohibited goods shall not be released under any circumstance.

If, after receiving further information, or in the absence of a response, the Bureau still has reasonable doubts on the truth or accuracy of the declared value, it may deem that the appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.

The aggrieved importer adversely affected 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. 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. In case the ruling of the Commissioner is adverse to the importer, he may file a motion for reconsideration with the Commissioner within fifteen (15) calendar days, from receipt of the ruling or appeal the ruling to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner.

In this regard, Sections 3(a) and 4(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, provide:

> "**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** xxx. (n)
>
> xxx xxx xxx
>
> **SEC. 4.** *Where to appeal; mode of appeal.* – (a) **An appeal from** a decision or ruling or the inaction of the

customs value of the imported goods cannot be determined under method one, without prejudice to an importer's right to appeal pursuant to Section 1104 of this Act. Before taking a final decision, the District Collector shall communicate to the importer, in writing if requested, the grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond. When a final decision is made, the Bureau shall communicate its decision, and the grounds therefor in writing.

Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, **the decision or ruling of the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, **shall be taken to the Court by filing before it a petition for review <u>as provided in Rule 42 of the Rules of Court</u>**. The Court in Division shall act on the appeal. (n)" (*Emphasis and underscoring supplied)*

Relative thereto, Sections 2 and 3 of Rule 42 of the Rules of Court, as amended[4], provide:

"Section 2. *Form and contents.* – **The petition** shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and **shall** (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) **indicate the specific material dates showing that it was filed on time**; (c) **set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both**, allegedly committed by the Regional Trial Court, and **the reasons or arguments relied upon for the allowance of the appeal**; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or

---

[4] 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. NO. 19-10-20-SC).

different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (n)

Section 3. *Effect of failure to comply with requirements.* – The failure of the petitioner to comply with **any** of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and **the contents of** and **the documents** which should accompany **the petition shall be sufficient ground for the dismissal thereof**. (n)" (*Emphasis supplied*)

Sec. 2, Rule 6 of the RRCTA, as amended, also states:

"**SEC. 2.** *Petition for review; contents.* — The **petition for review** shall contain **allegations showing the jurisdiction of the Court**, **a concise statement of the complete facts and a summary statement of the issues involved in the case**, as well as **the reasons relied upon for the review of the challenged decision**. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition. (*RTCA, Rule 5, sec. 2a*)" (*Emphasis supplied)*

Based on the above provisions, a petition for review filed before the Court shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. Failure of petitioner to comply with any of the requirements regarding the contents of and the documents which should accompany the petition, among others, shall be sufficient ground for the dismissal of the petition, pursuant to Rule 42 of the Rules of Court, as amended.

As explained by the Supreme Court in *De Liano, et al. vs. Court of Appeals, et al.*[5]:

---

[5] *De Liano, et al. vs. Court of Appeals, et al.*, G.R. No. 142316, November 22, 2001.

"An assignment of errors xxx is defined in this wise:

> An assignment of errors in appellate procedure is an enumeration by appellant or plaintiff in error of the errors alleged to have been committed by the court below in the trial of the case upon which he seeks to obtain a reversal of the judgment or decree; it is in the nature of a pleading, and performs in the appellate court the same office as a declaration or complaint in a court of original jurisdiction. Such an assignment is appellant's complaint, or pleading, in the appellate court, and takes the place of a declaration or bill; an appeal without an assignment of errors would be similar to a suit without a complaint, bill, or declaration. The assignment is appellant's declaration or complaint against the trial judge, charging harmful error, and proof vel non of assignment is within the record on appeal.
>
> xxx xxx xxx
>
> The object of such pleadings is **to point out the specific errors claimed to have been committed by the court below, in order to enable the reviewing court and the opposing party to see on what points appellant or plaintiff in error intends to ask a reversal of the judgment or decree, and to limit discussion to those points**. The office of an assignment of errors is not to point out legal contentions, but only to inform the appellate court that appellant assigns as erroneous certain named rulings; the function of the assignment is to group and bring forward such of the exceptions previously noted in the case on appeal as appellant desires to preserve and present to the appellant.

It has been held that a general assignment of errors is unacceptable under the rules. Thus, a statement of the following tenor: that "the Court of First Instance of this City incurred error in rendering the judgment appealed from, for it is contrary to law and the weight of the evidence," was deemed insufficient. The appellant has to specify in what aspect of the law or the facts that the trial court erred. The conclusion, therefore, is that the appellant must carefully formulate his assignment of errors. Its importance cannot be underestimated, as Section 8, Rule 51 of the Rules of Court will attest:

> *Questions that may be decided.* -No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

xxx xxx xxx

Some may argue that adherence to these formal requirements serves but a meaningless purpose, that these may be ignored with little risk in the smug certainty that liberality in the application of procedural rules can always be relied upon to remedy the infirmities. This misses the point. We are not martinets; in appropriate instances, we are prepared to listen to reason, and to give relief as the circumstances may warrant. However, **when <u>the error relates to something so elementary as to be inexcusable</u>, our discretion becomes nothing more than an exercise in frustration**. xxx" (*Emphasis and underscoring supplied*)

A cursory examination of the Petition for Duty and Tax Refund reveals that it is not the petition for review as provided in Rule 42 of the Rules of Court, as amended, in relation to Section 4(a), Rule 8 of the RRCTA, not only because of the caption of the pleading, but also because the specific material dates showing that the Petition was filed on time were not indicated. Neither does the Petition set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by respondents, and the reasons or arguments relied upon for the allowance of the appeal, thus:

"PETITION FOR DUTY AND TAX REFUND

xxx xxx xxx

2. That Petitioner has tried to exhaust all possible administrative remedies by submitting his protests to the good office of the Office of the Hon. Commissioner REY LEONARDO GUERERRO of the Bureau of Customs at his Office at South Harbor, Port Area, Manila, earnestly praying to grant unto the herein Petitioner/Appellant the appropriate duty/tax relief and easement from bearing the duty/tax burdens arising out of the excessive charges of customs duty/tax on its rice shipments either by way of refund, drawback or credit, reduction, adjustment, abatement, settlement, or compromise, relative to its rice importations.

A faithful photo reproduction of the Protests and Demands received by the Bureau of Customs marked CCC-20-64532 dated August 17, 2020; CCC-20-72349 dated Sep. 7, 2020; CCC-20-80560, CCC-20-80561, CCC-20-80562, CCC-20-80564, CCC-20-80565, and CCC-20-80566 dated September 25, 2020, are herein attached and being 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 pice (*sic*) 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 and adjusted accordingly with the conditions as set forth under the aforecited Section 701, which are evidently excessively, unfairly, unjustly, and inequitably charged. Hereunder is a recapitulation of the related valuation particulars:

	Arrival Date of	Date of the Protest Received	Bill of		Particulars	Details of goods shipped from	Customs Duty* inappropriately imposed based on	Customs Duty** For Consignee based on	Over-charged Amount of Duty

Item #	Shipment From Exporter	by the Bureau of Customs	Lading Number	Entry Number	of Vessel Boarded	supplier To importing Consignee	Reference Value /mt.	Transaction Value per GATT/ Per Sec.701 Chap. I RA10863	Collected and Disputed by Consignee/ Petitioner
1	Sep. 1,2020	Sep. 23,2020	#204860893	C-1119664	PROSPER V.035N	10,400 bags @50kgs/bag Vietnam White Rice	P4,106,805.51	P3,141,785.52	P965,019.99

4. That, despite of the fact of a palpable lapse of the intervening period of nearly half a year up to the present day already, 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, 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;

5. That there is no appeal, nor has the Petitioner any other practical, expedient, plain, speedy, and adequate remedy in the ordinary course of law.

xxx xxx xxx"

As may be gleaned from the foregoing, allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision are noticeably absent in the Petition. While petitioner avers that he "has tried to exhaust all possible administrative remedies by submitting his protests to the good office of the Office of the Hon. Commissioner REY LEONARDO GUERERRO of the Bureau of Customs" and that "there is no appeal, nor has the Petitioner any other practical, expedient, plain, speedy, and adequate remedy in the ordinary course of law", the Petition does not show whether he underwent the procedures for dispute settlement for customs valuation under CAO-02-2020, namely, elevating the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector, before appealing by way of protest to respondent COC within fifteen (15) days from receipt of the adverse ruling of the District Collector or, within fifteen (15) days from payment, if payment was made as a result of the adverse ruling, and appealing to the Court by way of the instant Petition.

In addition to the foregoing, the Court further observes that the Verification and Certification of Non-Forum Shopping attached to the Petition failed to attest the matters required under Section 4 (b) and (c), Rule 7 of the Rules of Court, as amended[6]. Notably, also, the Verification and Certification of Non-Forum Shopping states that the one who signed it, Mr. Antonio De Jesus Silva, is acting in representative capacity as the President of Goldmine Rice Marketing, and not the named petitioner in this case, which is L.T.J.S. Store. There was also nothing attached in the Petition which would show the business registration of Petitioner. Clearly, the Petition lacks proper verification.

Also, even if petitioner properly filed a Petition for Review instead of a Petition for Duty and Tax Refund, a perusal of the petition and the attachments therein shows that the Court has no jurisdiction over the case as the same is already filed out of time, assuming that there is a ruling issued by the District Collector and

---

[6] 2019 Amendment to the 1997 Rules of Civil Procedure (A.M. No. 19-10-20-SC) as adopted by this Court pursuant to CTA En Banc Resolution 9-2020. Section 4, Rule 7 reads:

Section 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

<u>A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:</u>

(a) <u>The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;</u>

(b) <u>The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and</u>

(c) <u>The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.</u>

<u>The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.</u>

A pleading required to be verified <u>that</u> contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (4a) that the alleged inaction of respondent COC on petitioner's protest is appealable to this Court.

Under CAO No. 02-2020, 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. In case the ruling of the Commissioner is adverse to the importer, he may file a motion for reconsideration with the Commissioner within fifteen (15) calendar days, from receipt of the ruling or appeal the ruling to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner. On the other hand, Sec. 3(a), Rule 8 of the RRCTA, as amended, states that a party adversely affected by a decision or ruling of respondent COC may appeal to the Court by petition for review filed within thirty (30) days after receipt of a copy of such decision or ruling.

In this case, the alleged ruling of respondent District Collector was deemed affirmed by respondent COC, considering the alleged failure of respondent COC to act on petitioner's protest within thirty (30) days from September 23, 2020 or until October 23, 2020. Thus, petitioner should have filed a motion for reconsideration with respondent COC within fifteen (15) calendar days from October 23, 2020 or until November 7, 2020 or, assuming that the inaction is appealable to this Court, appeal to the Court respondent COC's ruling affirming respondent District Collector's ruling within 30 calendar days from October 23, 2020 or until November 22, 2020. Clearly, even if petitioner properly filed a Petition for Review instead of a Petition for Duty and Refund, the same is already filed out of time considering it was filed only on May 26, 2021 or 185 days late.

The premise that underlies all appeals is that they are merely rights which arise from statute; therefore, they must be exercised in the manner prescribed by law. It is to this end that rules governing pleadings and practice before appellate courts were imposed. These rules were designed to assist the appellate court in the accomplishment of its tasks, and overall, to enhance the orderly administration of justice. [7]

In view of all the foregoing, the Petition for Duty and Tax Refund must be dismissed both for procedural and jurisdictional grounds.

---

[7] *De Liano, et al. vs. Court of Appeals, et al.*, G.R. No. 142316, November 22, 2001.

WHEREFORE, premises considered, respondent COC's **Motion to Admit Answer** is **GRANTED**. Accordingly, the Answer attached to the motion is admitted and made part of the records of this case.

Further, respondent COC's request for the dismissal of the case incorporated in his **Answer** is **GRANTED**. Accordingly, the **Petition for Duty and Tax Refund** is **DISMISSED**.

SO ORDERED.

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice