REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

ARLYN SOLITA A. BRIONES, owner and proprietor of ELJ1 Medical Shop,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

CTA CASE NO. 10355

Members:

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

Promulgated:
JUN 20 2024 4:25 pm

x --- x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is the "Motion for Reconsideration (To the Decision dated 03 January 2024)"[1] (**MR**) filed by petitioner Arlyn Solita A. Briones, owner and proprietor of ELJ1 Medical Shop (**petitioner/Briones**) on 25 January 2024, with respondent Commissioner of Customs' (**respondent**'s/**COC**'s) Comment[2] thereto, filed on 13 February 2024.

Petitioner seeks the reversal and setting aside of this Court's Decision[3] promulgated on 03 January 2024 (**assailed Decision**) in the above-captioned case. The Decision denied the instant Petition for Review[4] for lack of merit and, affirmed respondent's Order dated 03 August 2020[5] (**Order of Seizure**) which, in turn, affirmed the 21 May

---

1 Division Docket, Volume IV, pp. 1475-1488.
2 Id., pp. 1492-1499.
3 Id., pp. 1440-1474.
4 Id., Volumes I and II, pp. 7-791, with annexes.
5 Exhibit "P-2"/Exhibit "R-6", id., Volume II, pp. 896-925.

2020 Decision[6] of then Acting District Collector of the Manila International Container Port (**MICP**), Guillermo Pedro A. Francia (**Acting District Collector Francia**).

In the assailed Decision[7], this Court held that the seizure of imported goods was valid under respondent's visitorial power as provided under Section 224[8] of Republic Act (**RA**) No. 10863 or the Customs Modernization and Tariff Act of 2016 (**CMTA**). Furthermore, petitioner failed to show a compelling reason to annul or reverse respondent's Order of Seizure. Said Order affirmed then MICP Acting District Collector Francia's Decision dated 21 May 2020, which resulted in the forfeiture of petitioner's imported medical supplies in favor of the government.

In the instant MR, petitioner insists that the subject seizure was made arbitrarily and that there was no prior determination that the seized medical supplies were imported or obtained from outside the Philippines. She asserts that respondent's composite inspection team lacked prior determination or preponderant evidence when they conducted the seizure considering the following admissions of respondent's sole witness, Special Agent I Manfred Rosete (**SA Rosete**): (1) he did not participate in the inventory and cross-matching process carried out by the relevant customs officers; (2) he was unaware whether the customs officers involved had expertise or experience in dealing with medical products; (3) he was uncertain if the team ever conducted any reconciliation to clarify the alleged discrepancies; (4) he was only present about half the time during the inspection and seizure of the goods; and, (5) he did not see any documentation proving that the goods were imported and/or regulated.

---

6 Exhibit "P-1", id., Volume III, pp. 1260-1290.

7 Supra at note 3.

8 **SEC. 224.** *Power to Inspect and Visit.* — The Commissioner or any customs officer who is authorized in writing by the Commissioner, may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage. In the event that the interested party fails to produce such evidence within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings: *Provided,* That during the proceedings, the interested party shall be given the opportunity to prove or show the source of the goods and the payment of duties and taxes thereon: *Provided, further*, That when the warrant of seizure has been issued but subsequent documents presented evidencing proper payment are found to be authentic and in order, the District Collector shall, within fifteen (15) days from the receipt of the motion to quash or recall the warrant, cause the immediate release of the goods seized, subject to clearance by the Commissioner: *Provided, finally*, That the release thereof shall not be contrary to law.

Juxtaposed with respondent's failure to establish probable cause, petitioner also reasserts that she demonstrated her status as a 'buyer in due course' or 'purchaser in good faith' of the seized medical supplies from local suppliers. As a seller or retailer of these supplies, petitioner claims she is not the importer, exporter, original owner, consignee, or agent of another person involved in the importation or entry in question. Additionally, there are no factual circumstances presented to show that she had knowledge that the goods were imported unlawfully.

Petitioner also notes that respondent failed to establish probable cause for issuing the Order of Seizure since the inventory did not specify the actual number of goods, their country of origin, or their manufacturer. This lack of information allegedly prevents a reasonably prudent person from concluding that the seized medical supplies were unlawfully imported or that there was an attempt to evade payment of proper customs duties and taxes.

Lastly, petitioner argues that respondent's Order of Seizure, if upheld, will have substantial consequences. Specifically, it would effectively require all retailers, despite having no participation in the importation of goods, to possess the importation papers for every item in their inventory. This allegedly imposes a heavy burden on retailers and other entrepreneurs beyond what is contemplated by the CMTA.

In his or her Comment, respondent contends that the instant MR deserves scant consideration as the points raised therein are a mere rehash of the arguments that have already been exhaustively addressed and passed upon in the assailed Decision.

Respondent cites that Supreme Court's ruling in *Epifanio San Juan, Jr. v. Judge Ramon A. Cruz, Regional Trial Court, Branch 224, Quezon City and Atty. Teodorico A. Aquino*[9], which held that a second MR can be denied if it merely rehashes or reiterates arguments and grounds already addressed by the trial court. While this ruling involves a second MR, respondent argues that it applies to the instant MR as well, since petitioner failed to raise any new or substantial grounds to justify the reconsideration sought.

---

[9] G.R. No. 167321, 31 July 2006.

Respondent also notes that, as found by this Court, the fact that the seized medical supplies were imported or foreign-manufactured was conclusively established not only through the testimony of SA Rosete but also by petitioner's own evidence. Since petitioner herself admitted that some of the medical supplies were imported goods, she bears the burden of proving that the appropriate duties and taxes have been paid. Unfortunately for petitioner, she failed to meet this burden in the proceedings before the District Collector and/or COC as well as this Court.

Regarding petitioner's invocation of the principle of a 'buyer in due course' or 'purchaser in good faith', respondent reiterates that this principle does not apply in a forfeiture proceeding due to its *in rem* nature.

We rule below.

After a careful perusal of the instant MR[10] and the arguments raised therein, We find the same bereft of merit.

At the outset, the Court finds no new matters or arguments that were not considered in the assailed Decision. Petitioner essentially reiterated and built upon the arguments earlier passed upon and rejected by this Court. Nonetheless, if only to put petitioner's mind to rest, this Court will clarify the basis for the assailed Decision.

THE SEIZURE OF THE SUBJECT MEDICAL SUPPLIES WAS NOT ARBITRARY.

As explained in the assailed Decision, the basis for the seizure of petitioner's medical supplies is Section 224[11] of the CMTA, which authorizes respondent to effect seizure when the interested party, *i.e.*, petitioner as the possessor of the goods, cannot provide evidence of duty and tax payments on imported goods openly for sale or kept in storage within fifteen (15) days from demand. This is known as respondent's 'visitorial power' that allows him or her and/or any authorized customs

---

10 Supra at note 1.
11 Supra at note 8.

officer to verify compliance with customs regulations and ensure proper revenue collection.

The conditions for a valid seizure or forfeiture stemming from the exercise of respondent's visitorial power under Section 224[12] of the CMTA include: (1) seizure by authorized personnel; (2) presence of imported goods; (3) the imported goods are open for sale or kept in storage; (4) failure to provide proof of payment within 15 days; and, (4) an opportunity for the interested party to present evidence during forfeiture proceedings.

Here, this Court held that the imported medical supplies seized from petitioner's 'ELJ1 Medical Shop' met the aforementioned conditions. Duly authorized customs officials discovered the said supplies during an inspection, and despite being given the opportunity to prove payment, petitioner failed to provide sufficient evidence. This justified the seizure and forfeiture proceedings. We quote hereunder the pertinent discussion in the assailed Decision:

> ...
>
> Anent the ***first* condition**, there was prior written authorization from the COC to carry out such 'visitorial power', as evidenced by the LOA and the MO issued and signed by respondent, then Customs Commissioner Rey Leonardo B. Guerrero (**Commissioner Guerrero**), on 30 March 2020. Accordingly, duly authorized BOC and PCG officials named therein conducted an inspection or examination at the business premises of petitioner's 'ELJ1 Medical Shop' located at 1600 E. Remegio St., Brgy. 316 Zone 32, Sta. Cruz, Manila. This inspection was aimed at investigating suspected storage of smuggled medical supplies.
>
> Given that medical supplies were indeed discovered thereat, in compliance with the ***third*** and ***fourth* conditions**, respondent demanded evidence of payment of the duties and taxes on these suspected imported goods, which were openly for sale and kept in storage. However, petitioner was unable to provide the necessary proof of payment, leading to the seizure and initiation of forfeiture proceedings for the medical supplies. Furthermore, when BOC personnel requested such evidence, petitioner failed to sufficiently demonstrate the origin or source of the medical supplies and the payment of duties and taxes on them. Therefore, respondent had valid grounds to seize the medical supplies and initiate forfeiture proceedings.

---

12 Supra at note 8.

> As regards the ***second* condition**, there must be preponderant evidence to establish that the subject seized medical supplies in question were imported or obtained from outside the Philippines. Section 224 of the CMTA clearly states that only imported goods fall under respondent's visitorial power. The prior determination that the seized medical supplies are imported or foreign-manufactured could be discerned from the cross-examination of SA Rosete[.]
>
> ...
>
> Moreover, petitioner herself admitted that some of the medical supplies in question were imported goods[.] ...
>
> ...
>
> Furthermore, it is worth noting that some affidavits that the authorized representatives of petitioner's local suppliers executed and attached to petitioner's Manifestation dated 07 May 2020 (which was filed with the BOC during the course of the forfeiture proceedings), include the following statement:
>
> ...
>
> > 2. I am executing this affidavit to confirm that [name of supplier] **imports** the following items with the corresponding brand/s[.]
> >
> > ...
>
> As can be gleaned from the foregoing, respondent has sufficiently established the ***second* condition** for a valid seizure or forfeiture under Section 224 of the CMTA, *i.e.*, that the subject seized medical supplies were imported goods.
>
> ...
>
> Lastly, respondent has also fulfilled the ***fifth* condition**. During the forfeiture proceedings, petitioner was afforded the opportunity to demonstrate the origin of the seized medical supplies and the payment of relevant duties and taxes. Despite this, petitioner again failed to provide sufficient evidence for both the source of such articles and the payment of duties and taxes thereon.[13]
>
> ...

Contrary to petitioner's contention, this Court found preponderant evidence that the seized medical supplies were imported or obtained from outside the Philippines. The cross-examination of SA Rosete revealed a sufficient basis to conclude that the seized medical supplies were imported. Specifically, SA Rosete testified that the boxes examined by customs officers indicated that the items stored in petitioner's warehouse were imported, and he personally witnessed the

13 Supra at note 3; Citations omitted, emphasis and italics in the original text.

inventory process, confirming that some of the products were imported. Additionally, petitioner herself admitted that some of the medical supplies were imported. This admission alone provides substantial evidence of the imported nature of the goods in question.

Moreover, the affidavits from authorized representatives of petitioner's local suppliers, attached to petitioner's Manifestation dated 07 May 2020[14], confirmed that such suppliers imported the goods in question. These affidavits provide further evidence supporting respondent's Order of Seizure.

While SA Rosete admitted to certain limitations in his participation and knowledge during the seizure process, these admissions do not negate the overall evidence establishing that the medical supplies in question were imported. The collective evidence, including petitioner's own admissions and the aforesaid affidavits from authorized representatives of petitioner's local suppliers, outweighs the alleged deficiencies in SA Rosete's testimony.

As such, this Court finds that the seizure of the medical supplies was not arbitrary. The evidence presented, including petitioner's own admissions and the affidavits from suppliers, sufficiently establishes that the seized items were imported, thereby falling within the purview of respondent's visitorial power under Section 224[15] of the CMTA.

BEING A 'BUYER IN DUE COURSE' OR 'PURCHASER IN GOOD FAITH' IS NOT A VALID DEFENSE IN FORFEITURE PROCEEDINGS.

It bears reiterating that forfeiture proceedings are *in rem*, directed against the property (*res*) rather than the individual (*persona*). The Supreme Court has held in *The Commissioner of Customs v. Manila Star Ferry, Inc., et al.*[16], cited in the assailed Decision, that lack of actual knowledge by the owner of the illegal use of their property is not a valid defense to prevent forfeiture. This principle applies analogously to the instant case.

---

14 Exhibit "P-10", Division Docket, Volume I, pp. 393-411.
15 Supra at note 8.
16 G.R. Nos. L-31776-78, 21 October 1993.

Petitioner's claim of being a "buyer in due course" or "purchaser in good faith" does not absolve the subject seized imported medical supplies from forfeiture. The absence of knowledge or consent regarding any irregularities or illegalities associated with the imported goods does not exempt them from the liability of forfeiture. The defense of purchasing the goods from local suppliers is thus insufficient to negate the proceedings directed at the goods themselves.

Respondent's alleged shortcomings in preparing the inventory of seized goods, such as not indicating the country of origin or manufacturer, do not invalidate the probable cause for the seizure. In forfeiture proceedings, the main concern is whether the goods have violated customs laws, not the thoroughness of the inventory details. The inventory's primary purpose, under the COC's visitorial power, is to ensure that the seized goods are identifiable and their quantities accurately recorded. In this case, the customs officers have fulfilled their duty by documenting the quantities and general descriptions of the items found in petitioner's warehouse.

Accordingly, this Court finds that petitioner's status as a 'buyer in due course' or 'purchaser in good faith' and the alleged deficiencies in the preparation of the inventory, do not nullify the seizure of the subject imported medical supplies for which petitioner failed to provide proof of payment of duties and taxes. The principles governing forfeiture proceedings and the evidence presented sufficiently justify respondent's actions.

AN INTERESTED PARTY/POSSESSOR'S BURDEN OF PRESENTING OF PROOF PAYMENT OF DUTIES AND TAXES ON IMPORTED GOODS IS A NECESSARY MEASURE TO ENFORCE CUSTOMS REGULATIONS.

Section 224[17] of the CMTA mandates that once goods are determined to be imported or sourced from outside the Philippines, the possessor must show proof of payment of duties and taxes. This requirement is essential for combating smuggling and customs fraud, ensuring that all imported goods are properly declared and appropriate duties and taxes are paid.

---

[17] Supra at note 8.

While petitioner argues that this imposes a heavy burden on retailers, this Court finds that this requirement is a necessary tool for enforcing customs regulations. It safeguards revenue collection and protects the local economy from illegal imports. Retailers, as part of the supply chain, have a responsibility to ensure that the goods they sell are legally imported and properly declared.

To reiterate, for emphasis, the essence of Section 224 of the CMTA is to reinforce customs laws, ensuring that all imported goods undergo proper customs clearance, and that applicable taxes and duties are paid. This requirement prevents the circulation of smuggled or improperly imported goods in the market. By requiring proof of payment, the Bureau of Customs (**BOC**) can verify the legality of the imports and ensure that the appropriate taxes have been collected.[18]

This Court thus finds that the requirement for retailers to possess importation papers for every item in their inventory is not an undue burden but a necessary measure to enforce customs regulations and safeguard the local economy. The arguments raised by petitioner do not outweigh the importance of these regulatory measures in preventing smuggling and ensuring proper revenue collection.

All told, this Court sees no cogent reason to warrant a reconsideration or modification of the assailed Decision.

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration, filed on 25 January 2024, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

---

18 See *Narciso O. Jao and Bernardo M. Empeynado v. Court of Appeals, et al.*, G.R. No. 104604, 06 October 1995, citing *Commissioner of Customs v. Judge Ramon P. Makasiar, et al.*, G.R. No. 79307, 29 August 1989, re: the government's drive not only to prevent smuggling and other frauds upon customs, but also, and more importantly, to render effective and efficient the collection of import and export duties due the state.

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice