REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

AMIRA C FOODS INTERNATIONAL DMCC, Petitioner,	**CTA CASE NO. 8557** Members:
- versus -	**DEL ROSARIO**, *P.J.*, Chairperson, **UY**, and **MINDARO-GRULLA**, *JJ.*
REPUBLIC OF THE PHILIPPINES, Respondent.	Promulgated: NOV 22 2019 9:00 a

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AMENDED DECISION

DEL ROSARIO, *P.J.*:

Before the Court are respondent's **Motion for Reconsideration (on the July 18, 2019 Decision)** filed on August 8, 2019, with petitioner's **Comment on the Motion for Reconsideration (on the July 18, 2019 Decision)** filed on September 25, 2019; and, petitioner's **Motion (to Include the Award of Interest in the Decision dated 18 July 2019)** posted on August 8, 2019, with respondent's **Manifestation (In lieu of Comment)** filed on September 13, 2019.

Respondent's Motion for Reconsideration

Respondent submits that the definition of "importation" in this case should be that which is provided in the Tariff and Customs Code of the Philippines (TTCP), and not as newly defined by the Customs Modernization and Tariff Act (CMTA) as the latter law provides in Section 1081 thereof that all suits, for all causes arising or acts done or committed prior to the effectivity of the CMTA, shall be commenced and prosecuted within the same time in the same manner and with the same effect as if the CMTA had not been enacted.

Citing *Feeder International Line Pte. Ltd., by its agent, Feeder International (Phils.), Inc. vs. Court of Appeals, et al.*[1] (*Feeder International*), respondent argues that contrary to the Court's finding that it is not the intention to import goods but the act of actual bringing of goods into the Philippine Customs Territory that is taxable, mere intent to unload is sufficient to commence importation, and therefore, a taxable event.

Further, respondent reiterates that the deposition of petitioner's witness, Mr. Protik Guha, Chief Executive Officer of Amira Pure Foods Private Ltd., confirmed that petitioner took into consideration the possibility of importing the Indian White Rice to the Philippines and, in the event thereof, the payment of corresponding taxes and duties thereon. Respondent also claims that while petitioner insists that the goods were sent to the Philippines only for temporary warehousing pending determination of its final destination, petitioner's documents and its failure to file an admission entry or T/AP negate any intent to export thereafter.

Thus, it prays that the Court reconsider its Decision dated July 18, 2019 and issue a new one denying petitioner's Petition for Review for lack of merit.

In its Comment, petitioner refutes respondent's motion and claims that the Court correctly applied the basic principle that the Subic Special Economic Zone (SSEZ) is a separate customs territory. Respondent's claim that petitioner intended to import the Indian White Rice cargo is purely speculative. Moreover, intent to import, *per se*, is not taxable.

Petitioner argues that respondent cannot rely on *Feeder International* because the facts in this case are not on all fours with the factual circumstances therein. Indeed, the Supreme Court, in that case, held that "mere intent to unload is sufficient to commence importation xxx", but this is in light of the Supreme Court's finding that the vessel entered Philippine Customs Territory when it anchored in Guiuanon Island, Guimaras, Iloilo.

Petitioner explains that indicating the "Port of Subic" as the port of final destination is not evidence of importation. Respondent's insistence ignores the necessity of indicating "Port of Subic" as the port of destination in order for MV Vinalines Mighty to be allowed to enter the SSEZ and for the rice cargo to be discharged within the

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[1] G.R. No. 194262, May 31, 1991.

Subic Bay Freeport Zone (SBFZ). Even the testimony of its own witness, District Collector Albano, confirmed the necessity to do so.

Petitioner reasons that respondent's reliance on the TCCP provisions on immediate exportation is misplaced. While immediate exportation presupposes that there has been importation or entry into customs territory, petitioner's Indian White Rice was never brought into Philippine Customs Territory.

Assuming there was a need to do so, petitioner faults respondent for preventing petitioner from filing an admission entry or T/AP as it seized the Indian White Rice, two (2) days before the lapse of the thirty (30) – period for filing such admission entry or T/AP.

Petitioner's Motion

Petitioner notes in its Motion that the accrued interest on the amount of ₱487,200,000.00, which was received by respondent after it proceeded with the auction sale of petitioner's Indian White Rice on October 17, 2012 and deposited to Special Account No. 1571-0589-83 with the Land Bank of the Philippines, Freeport Zone (SBFZ) Branch, was not mentioned in the dispositive portion of the Decision. Petitioner submits that all interest earned by Special Account No. 1571-0589-83 in the principal amount of ₱487,200,000.00 legally belongs to it. Considering that the amount represents the bid price of petitioner's Indian White Rice, any interest that the bid price may earn also belongs to it. Thus, petitioner prays that the corresponding interest on the amount of ₱487,200,000.00 be included in the amount awarded to it.

In its Manifestation, respondent agrees that the interest earnings of the amount in escrow should accrue to the owner of the principal amount.

THE COURT'S RULING

The Court finds respondent's Motion for Reconsideration bereft of merit while petitioner's Motion meritorious.

Respondent's arguments in its Motion for Reconsideration mainly restate, reiterate and amplify its arguments in the Memorandum dated June 28, 2018 which were duly considered, weighed and resolved by the Court in the assailed Decision. Thus, the Court finds no justifiable reason to disturb its conclusions in the assailed Decision.

Parenthetically, petitioner is mistaken in assuming that the Court applied the CMTA definition of 'importation' in resolving the present case. A plain reading of the assailed Decision would show that the Court applied the TCCP and prevailing law, rules and jurisprudence in arriving at its conclusion that there was no importation since petitioner's Indian White Rice was not brought into the Philippine Customs Territory and in fact remained at the SSEZ until its public auction. Page 35 of the Decision[2] merely quoted the definition of importation under the CMTA for easy reference.

Further, petitioner's reliance on *Feeder International* to bolster its argument that "mere intent to unload is sufficient to commence importation, therefore, a taxable event" is misplaced. As correctly pointed out by petitioner, the facts of *Feeder International Line* and the present case are different. While indeed the Supreme Court stated therein that "mere intent to unload is sufficient to commence importation", the same was followed by the statement: "[a]nd 'intent,' being a state of mind, is rarely susceptible of direct proof, but must ordinarily be inferred from the facts, and therefore can only be proved by unguarded, expressions, conduct and circumstances generally. Thus, it must be construed in light of the Supreme Court's finding therein that the vessel entered the Philippine Customs Territory when it anchored at Guiuanon Island, Guimaras, Iloilo. Unlike in *Feeder International Line*, MV Vinalines Mighty carrying petitioner's Indian White Rice never entered the Philippine Customs Territory as it remained within the SSEZ.

Inevitably, respondent's Motion for Reconsideration should be denied for lack of merit.

Petitioner's Motion, on the other hand, is meritorious.

The ownership of property gives the right of accession to everything which is produced thereby or which is incorporated or attached thereto, either naturally or artificially.[3] To the owner, thus, belongs, the natural, industrial and civil fruits of its property.[4]

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[2] Decision, CTA Docket Vol. IV, p. 2308.
[3] Article 440, Civil Code.
[4] Article 441, Civil Code. To the owner belongs:
(1) The natural fruits;
(2) The industrial fruits;
(3) The civil fruits.

As the owner of the Indian White Rice sold at public auction, its bid price likewise belongs to petitioner. By the right of accession, the interest earned thereon, which are deemed as civil fruits, while on deposit with the Land Bank of the Philippines, Freeport Zone (SBFZ) Branch also belongs to petitioner.

The ruling in *Republic of the Philippines, represented by the Toll Regulatory Board (TRB) vs. Holy Trinity Realty Development Corp.,*[5] where the entitlement to interest of the owner of the expropriated property earned by the amount deposited in the expropriation account was upheld, is *apropos*:

> The case at bar, however, does not involve interest as damages for delay in payment of just compensation. **It concerns interest earned by the amount deposited in the expropriation account.**
>
> xxx xxx xxx
>
> HTRDC never alleged that it was seeking interest because of delay in either of the two payments enumerated above. In fact, HTRDC's cause of action is based on the prompt initial payment of just compensation, which effectively transferred the ownership of the amount paid to HTRDC. Being the owner of the amount paid, HTRDC is claiming, by the right of accession, the interest *earned* by the same while on deposit with the bank.
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> That the expropriation account was in the name of DPWH, and not of HTRDC, is of no moment. We quote with approval the following reasoning of the Court of Appeals:
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>> Notwithstanding that the amount was deposited under the DPWH account, ownership over the deposit transferred by operation of law to the [HTRDC] and **whatever interest, considered as civil fruits, accruing to the amount of Php22,968,000.00 should properly pertain to [HTRDC] as the lawful owner of the principal amount deposited following the principle of accession. Bank interest partake the nature of civil fruits under Art. 442 of the New Civil Code. And since these are considered fruits, ownership thereof should be due to the owner of the principal.** Undoubtedly, being an attribute of ownership, the [HTRDC's] right over the fruits *(jus fruendi)*, that is the bank interests, must be respected.
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> Considering that the expropriation account is in the name of DPWH, then, DPWH should at most be deemed as the trustee of the amounts deposited in the said accounts irrefragably intended as initial payment for the landowners of the properties subject of the expropriation, until said landowners are allowed by the RTC to withdraw the same. (Boldfacing supplied)

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[5] G.R. No. 172410, April 14, 2008.

WHEREFORE, considering the foregoing disquisitions, respondent's **Motion for Reconsideration (on the July 18, 2019 Decision)** is hereby **DENIED** for lack of merit while petitioner's **Motion (to Include the Award of Interest in the Decision dated 18 July 2019)** is hereby **GRANTED**. Accordingly, the assailed Decision dated July 18, 2019 is **MODIFIED** to read, as follows:

> **WHEREFORE**, in view of the foregoing considerations, petitioner Amira C Foods International DMCC's Petition for Review is hereby GRANTED. The assailed September 11, 2012 Decision in Customs Case No. 2012-013 is **REVERSED** and **SET ASIDE**. Accordingly, **UPON FINALITY OF JUDGMENT**, the respondent Republic of the Philippines is ORDERED to RELEASE and DELIVER to petitioner Amira C Foods International DMCC the amount of **FOUR HUNDRED EIGHTY-SEVEN MILLION TWO HUNDRED THOSAND PESOS (₱487,200,000.00)** representing the bid price of its Indian White Rice which was received by the Commissioner of Customs and placed under Special Account No. 1571-0589-83, Land Bank of the Philippines, Freeport Zone (SBFZ) Branch, **<u>including all interest earned on the amount from the time of deposit until its satisfaction of judgment.</u>**
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> **SO ORDERED.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended 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