

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL FIRST DIVISION

MT ALPINE MAGNOLIA,
Petitioner,

CTA Case No. 9554

Members:

- versus -

DEL ROSARIO, P.J., Chairperson,
UY, and
MINDARO-GRULLA, JJ.

**COMMISSIONER OF BUREAU
OF CUSTOMS AND DISTRICT
COLLECTOR OF BATAAN,**
Respondents.

Promulgated:

JAN 07 2019 : 9:00am

x- - - - -X

RESOLUTION

DEL ROSARIO, P.J.:

This resolves respondents' **Motion for Reconsideration (Re: Decision dated 22 October 2018)** filed on November 9, 2018, with petitioner's **Comment/Opposition (Re: Motion for Reconsideration dated 8 November 2018)** filed on November 23, 2018.

Challenged in the present Motion for Reconsideration is the Court's Decision promulgated on October 22, 2018 which declared that petitioner is a common carrier under Voyage Charter at the time the incident happened; it is exempt from seizure and forfeiture pursuant to Section 1113(a) and (k) of the Customs Modernization and Tariff Act (CMTA); there is no sufficient evidence to prove that petitioner's owner or agent has any participation in the alleged smuggling/loop loading; and, the order of forfeiture of MT Alpine Magnolia by respondent District Collector of Bataan, being in violation of the mandatory provisions of the CMTA and petitioner's right to due process (which was deemed affirmed by the Commissioner of Customs) was unlawful and invalid and must perforce be cancelled and set aside. The dispositive portion of the assailed Decision reads:

Resolution

*MT Alpine Magnolia vs. Commissioner of Bureau of Customs
and District Collector of Bataan*

CTA Case No. 9554

Page 2 of 3

“WHEREFORE, premises considered, the Petition for Review is **GRANTED**. The Decision of the District Collector of Bataan, which was deemed affirmed by the Commissioner of Customs, ordering the forfeiture of MT Alpine Magnolia is **REVERSED AND SET ASIDE**. Accordingly, the order of this Court in the August 4, 2017 Resolution to release MT Alpine Magnolia is **DECLARED PERMANENT**. The Surety Bond (PIIC Bond No. BD-NIL-RS-17-0000345-00-D dated 16 August 2017) issued by Pioneer Intercontinental Insurance Corporation in the amount of One Billion Pesos (Php1,000,000,000.00) is **ORDERED RELEASED AND DISCHARGED UPON FINALITY OF JUDGMENT**.

Respondent's Compliance and Manifestation filed on August 1, 2018 is **NOTED**.

SO ORDERED.”

Respondents argue that the Court committed an error in categorizing petitioner as a common carrier, instead of a private carrier; that even if petitioner is a common carrier, it can be subject of forfeiture due to the knowledge or participation of the owner or agent in the unlawful act; that they had firmly established that there was probable cause to issue the Warrant of Seizure and Detention (WSD) and factual basis to subsequently order the forfeiture of MT Alpine Magnolia for smuggling; that the WSD and the assailed forfeiture decision are valid and proper as they were issued in full accordance with law and procedural due process.

Respondents prayed that the October 22, 2018 Decision be reversed and set aside; and that a new one be issued dismissing the Petition for Review, upholding the Decision of respondent District Collector of Bataan, as sustained by respondent Commissioner of the Bureau of Customs, and declaring as forfeited in favor of the Philippine Government petitioner's vessel and directing its immediate return, or ordering execution upon the full amount of One Billion Peso surety bond if return is not accomplished.

In its Comment/Opposition, petitioner states that the motion for reconsideration contains rehashed and similar arguments as pleaded in respondents' Answer and Memorandum which were already passed upon in the October 22, 2018 Decision. It argues that the Court

correctly held that it is a common carrier; it is expressly exempted from forfeiture under Section 1114 of the CMTA; there is no factual and legal basis for the issuance of the WSD and the subsequent order of forfeiture; that the WSD and order of forfeiture are void.

As correctly pointed out by petitioner, respondents' arguments are a mere rehash of their previous arguments stated in their Memorandum filed on July 23, 2018.¹ The said arguments have been duly considered in the October 22, 2018 Decision.

There being no new substantial matters raised in respondents' motion, the Court sees no cogent reason to modify, much more to reverse the assailed Decision.

WHEREFORE, in view of the foregoing, the **Motion for Reconsideration (Re: Decision dated 22 October 2018)** filed by respondents on November 9, 2018 is **DENIED** for lack of merit.

SO ORDERED.



ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:



ERLINDA P. UY
Associate Justice

(Inhibited)
CIELITO N. MINDARO-GRULLA
Associate Justice

¹ CTA Docket, pp. 3265-3299.