REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SUB-SEE PHILIPPINES INC. and NORTHERN ORIENTAL SHIPPING, LTD.,
Petitioners,

CTA Case No. 10102

-versus-

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

HON. REY LEONARDO B. GUERRERO, in his official capacity as COMMISSIONER OF CUSTOMS and ATTY. ELVIRA CRUZ, in her capacity as DISTRICT COLLECTOR OF CUSTOMS, PORT OF CEBU,
Respondents.

Promulgated:
AUG 10 2023 10:00AM

x---x

DECISION

REYES-FAJARDO, J.:

THE CASE

Petitioners filed this Petition for Review praying for a judgment: (1) setting aside the assailed Decisions dated October 22, 2018 and May 28, 2019, respectively rendered by respondents, District Collector and Commissioner of Customs ("COC"); (2) lifting the Warrant of Seizure and Detention ("WSD") issued against the vessel, MV Northern Queen; and (3) releasing said vessel to petitioners.

THE PARTIES

Petitioner Sub-see Philippines, Inc. ("Sub-see"), a corporation duly organized and existing under the laws of the Philippines, is the duly authorized management company of the vessel subject of the present petition, MV Northern Queen, a foreign flag vessel registered under the laws of Tuvalu.[1]

Petitioner North Oriental Shipping, Ltd. ("North Oriental"), a corporation duly organized and existing under the laws of Belize, is the owner of the vessel.[2]

Respondent Hon. Rey Leonardo Guerrero is impleaded in his official capacity as Commissioner of the Bureau of Customs ("BOC"), with office address at G/F OCOM Building, 16th Street, South Harbor, Port Area, Manila.[3]

Respondent District Collector, Atty. Elvira Cruz, is impleaded in her official capacity as the District Collector of the Port of Cebu, with office address at BOC, Pier 6, Gate 2, NRA, Port of Cebu.[4]

THE FACTS

On October 19, 2007, MV Northern Queen arrived in the Sub-Port of Mactan.

On the same date, Great Domestic Insurance Company of the Philippines (Formerly Domestic Insurance Company of the Philippines) issued Ordinary Re-export Bond No. 0185, in the amount of Three Million Five Hundred Thirty-Five Thousand Six Hundred Fifty Pesos and 50/100 (₱3,535,650.50) effective from October 19, 2007 until April 19, 2008.

1 Petition for Review, Docket - Vol. I, p. 11.
2 *Id.*
3 Petition for Review, *vis-à-vis*, Answer, Docket - Vol. I, pp. 11 and 218, respectively.
4 Petition for Review, *vis-à-vis* Par. 6, Answer, Docket - Vol. I, pp. 11 and 218, respectively.

On November 19, 2007, Vicente T. Suazo, Jr., Administrator of the Maritime Industry Authority ("MARINA"), wrote Captain Jens A. Hansen, Managing Director of Sub-see Philippines, Inc., informing him that his request for temporary registration of MV Northern Queen under Philippine flag for a period of one (1) year has been granted. It further provided that the bareboat charter authority for the vessel shall be valid until November 18, 2008.

On December 3, 2007, claimant Northern Oriental Shipping, Ltd., through its customs broker, Stewart Y. Marquez, filed Import Entry No. 02901 for the vessel.

On December 18, 2007, the Office of the Regional Director of MARINA issued a Certification recommending the release of MV Northern Queen from customs custody.

On December 21, 2007, the Office of the Port Collector, Sub-port of Mactan, issued the Certificate of Approval for Conversion from Foreign Trade to Domestic Trade of MV Northern Queen.

On February 17, 2008, Undersecretary Gaudencio A. Mendoza, Jr., from the Legal and Revenue Operations Group of the Department of Finance ("DOF"), allowed the release of said MV Northern Queen without payment of duties and taxes upon posting of a bond in an amount equivalent to One Hundred Fifty Percent (150%) of the duties and taxes, and conditioned on the re-exportation thereof or the payment of duties and taxes upon termination of the charter period.

On April 17, 2008, BF General Insurance Company Inc., issued BF Gen. Bond No. 00501-07 C(9) No. 02101 to renew the Re-Export Bond previously issued by Great Domestic Insurance Company of the Philippines, Inc. The new bond is valid until October 17, 2008.

On July 21, 2008, Atty. Ernesto D. Urbano, Collector of Customs, Sub-Port of Mactan, issued Certificate of Payment SN POC: 026-2008 for MV Northern Queen.

On September 30, 2008, another re-export bond was again posted for MV Northern Queen. The validity of the bond expires on April 16, 2009.

On November 18, 2008, the bareboat charter authority granted by MARINA to MV Northern Queen expired.

On February 16, 2009, claimant Northern Oriental Shipping, Ltd. requested for the conversion of MV Northern Queen from Local to Foreign. The request was approved on March 3, 2009.

On March 6, 2009, a Clearance of Vessel to a Foreign Port was issued for MV Northern Queen.

On October 7, 2011, Sector Commander Captain George G. Macarubbo issued a Memorandum recommending the issuance of a WSD against MV Northern Queen if it is not re-exported immediately or if there is no payment of customs duties and taxes considering that the bareboat charter authority had long expired.

On October 12, 2011, the BOC wrote a Demand Letter addressed to Captain Jens A. Hansen demanding the payment of Two Million Three Hundred Fifty-Five Thousand Seven Hundred Sixty-Seven Pesos (₱2,355,767.00), representing duties and taxes, including interest as of October 12, 2011.

On November 17, 2011, Captain George G. Macarubo recommended the issuance of a WSD against the vessel MV Northern Queen considering that Captain Jens A. Hansen ignored the demand of the BOC.

On November 21, 2011, Atty. Cornelio C. Mercado, legal counsel of Captain Jens A. Hansen, wrote then-District Collector Ronnie C. Silvestre and argued that the vessel was not subject to duties and taxes as it was on laid back status and awaiting determination of its seaworthiness prior to commissioning.

On March 14, 2012, the subject WSD (with Cebu Seizure Identification Case No. 03-2012) was issued by the District Collector of the Port of Cebu,[5] ordering the District Commander to seize MV Northern Queen, for failure of the said vessel's owner to pay duties and taxes due upon the expiry of its bareboat charter privilege, and to take custody of the same. The WSD also ordered the strict observance of Customs Memorandum Order ("CMO") No. 8-84, on making a return of service and the submission of inventory of articles seized.

PROCEEDINGS BEFORE THE DISTRICT COLLECTOR

On June 6, 2018, petitioners submitted their Position Paper,[6] and on July 9, 2018, the Government Prosecutor, Atty. Paul Romeo B. Polloso, submitted his Comment on said Position Paper.[7] After submission of petitioners' Reply to the Prosecution's Comment on July 30, 2018,[8] respondent District Collector rendered the assailed Decision dated October 22, 2018. The dispositive portion of which reads as follows:

> **WHEREFORE**, by virtue of the power vested in this office by law, the abovementioned Vessel subject matter of the subject case is hereby **ORDERED** and **DECREED** forfeited in favor of the government to be disposed of in the manner prescribed by law.
>
> . . .
>
> **SO ORDERED.**[9]

PROCEEDINGS BEFORE THE COMISSIONER OF CUSTOMS

On November 12, 2018, petitioners filed their Notice of Appeal and Memorandum on Appeal.[10]

---

5 Par. 18, Petition for Review, *vis-à-vis* Par. 30, Answer, Docket - Vol. I, pp. 13 and 221, respectively. Refer also to Par. 1, Answer (Docket - Vol. I, p. 217), in relation to Exhibit "P-1" (Docket, Vol - I, p. 50).

6 Par. 22, Petition for Review, *vis-à-vis* Par. 34, Answer, Docket - Vol. I, pp. 14 and 221, respectively.

7 Par. 23, Petition for Review, *vis-à-vis* Par. 35, Answer, Docket - Vol. I, pp. 14 and 221, respectively.

8 Par. 24, Petition for Review, *vis-à-vis* Par. 36, Answer, Docket - Vol. I, pp. 14 and 221, respectively.

9 Par. 25, Petition for Review, *vis-à-vis* Par. 37, Answer, Docket - Vol. I, pp. 14 and 222, respectively. Refer also to Par. 1, Answer, Docket - Vol. I, p. 217.

Thereafter, respondent COC rendered the Decision dated May 28, 2019 and received by petitioner on June 7, 2019, affirming the Decision of respondent District Collector, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the Decision dated 22 October 2018 of the District Collector, Port of Cebu, is hereby **AFFIRMED**. Accordingly, the MV NORTHERN QUEEN is ordered and decreed **FORFEITED** in favor of the government to be disposed of in the manner provided by law.
>
> . . .
>
> **SO ORDERED.**"[11]

PROCEEDINGS BEFORE THIS COURT

On July 4, 2019, petitioners filed their Petition for Review before the Court.[12]

On July 1, 2020, respondents filed their Answer.[13]

In the Resolution dated July 23, 2020,[14] the Court referred the case for mediation to the Philippine Mediation Center - Court of Tax Appeals. However, in view of the Back to Court Report from the Mediation Staff Assistant, Ms. Avigail B. Sanchez,[15] the case was returned to this Court due to "*Non-Appearance of Petitioner/s*". Thus, in its Resolution dated November 26, 2020,[16] the Court initially set the Pre-Trial Conference on March 18, 2021.[17]

---

10 Par. 27, Petition for Review, *vis-à-vis* Par. 39, Answer, Docket - Vol. I, pp. 14 and 222, respectively.

11 Par. 28, Petition for Review, *vis-à-vis* Par. 40, Answer, Docket - Vol. I, pp. 15 and 222, respectively. Refer also to Par. 1, Answer, Docket - Vol. I, p. 217.

12 Docket - Vol. I, pp. 10 to 24.

13 Docket - Vol. I, pp. 217 to 230.

14 Docket - Vol. I, pp. 316 to 317.

15 Docket - Vol. I, p. 423.

16 Docket - Vol. I, pp. 435 to 436.

17 Refer also to the Notice of Pre-Trial Conference dated December 3, 2020, Docket - Vol. I, pp. 437 to 440.

On March 15, 2021, respondents filed their Pre-Trial Brief via electronic mail.[18] On May 20, 2021, petitioners filed their Pre-Trial Brief also via electronic mail.[19] Subsequently, on May 27, 2021, the Pre-Trial Conference was held via videoconference.[20] During the said Conference, the Court gave the parties thirty (30) days within which to submit their Joint Stipulation of Facts and Issues ("JSFI").

In the Resolution dated November 25, 2021,[21] for failure of the parties to file their JSFI, the Court deemed the parties' right to file the same waived, and terminated the Pre-Trial. Thus, on March 18, 2022, the Pre-Trial Order was issued.[22]

Trial ensued.

Petitioners presented their documentary and testimonial evidence. They offered the testimonies of: (1) Mr. Elmer Lauron,[23] former crew member of MV Northern Queen; (2) Captain Jens A. Hansen,[24] president of petitioners; and (3) Captain Darwin S. Lacorte,[25] former second officer of petitioners.

On April 5, 2022, petitioners filed their Formal Offer of Exhibits.[26] Respondents then filed their Comment to Petitioners' Formal Offer of Exhibits on April 7, 2022.[27] In the Resolution dated May 16, 2022,[28] the Court admitted petitioners' offered exhibits, except for the following:

1. Exhibits "P-2", "P-6", "P-8", "P-9", and "P-10", for failure to present the originals thereof for comparison;

---

18 Docket - Vol. I, pp. 463 to 469.
19 Docket - Vol. I, pp. 472 to 483.
20 Notice of Resetting dated March 15, 2021, Docket - Vol. I, p. 459 to 460; Minutes of the hearing held on, and Order dated, May 27, 2021, Docket - Vol. I, pp. 570 to 575.
21 Docket - Vol. I, p. 728.
22 Docket - Vol. I, pp. 736 to 750.
23 Exhibit "P-25", Docket - Vol. I, pp. 551 to 562; Minutes of the hearing held on, and Order dated, November 4, 2021, Docket - Vol. II, pp. 630 to 633.
24 Exhibit "P-26-a", Docket - Vol. I, pp. 532 to 538; Minutes of the hearing held on, and Order dated, March 22, 2022, Docket - Vol. II, pp. 751 to 759.
25 Exhibit "P-27", Docket - Vol. II, pp. 765 to 776; Minutes of the hearing held on, and Order dated March 22, 2022, Docket - Vol. II, pp. 751 to 759.
26 Docket - Vol. II, pp. 805 to 814.
27 Docket - Vol. II, pp. 835 to 842.
28 Docket - Vol. II, pp. 852 to 854.

2. Exhibit "P-17" for failure to present the original thereof for comparison and for failure to comply with Section 24, Rule 132 of the Revised Rules on Evidence, as amended; and

3. Exhibits "P-24", "P-16", and "P-20", for failure to comply with Section 24, Rule 132 of the Revised Rules on Evidence, as amended.

In the same Resolution, the Court gave both parties thirty (30) days to file their memoranda there being no witness for respondents to present.[29]

Petitioners then filed their Memorandum via electronic mail on July 4, 2022,[30] while respondents' Memorandum was filed on July 26, 2022.[31]

On August 10, 2022, the case was submitted for decision.[32]

THE ISSUES

The issues to be resolved in this case are as follows:

1. Whether or not petitioners are liable to pay customs duties and taxes to the BOC, and

2. Whether or not the forfeiture and seizure of MV Northern Queen is valid.[33]

Petitioners' arguments:

---

29 Docket - Vol. II, p. 854.

30 Docket - Vol. II, pp. 855 to 871.

31 Docket - Vol. II, pp. 939 to 952.

32 Minute Resolution dated August 10, 2022, Docket - Vol. II, p. 971.

33 Issues to be Tried or Resolved, Pre-Trial Order dated March 18, 2022, Docket - Vol. II, p. 744; Refer also to the Minutes of the hearing held on, and Order dated, May 27, 2021, Docket - Vol. I, pp. 570 to 575.

Petitioners argue that respondents committed irreversible error in their Decisions dated May 28, 2019 and October 22, 2018, holding petitioners liable for customs duties and taxes, considering that: (a) the vessel was never registered under Philippine flag nor issued a certificate of Philippine registry; (b) petitioners secured the vessel's re-export bond with validity until April 16, 2009; (c) the vessel departed from the port of Mactan on March 6, 2009 or before the expiry of its re-export bond on April 16, 2009; and (d) that the forfeiture and seizure of MV Northern Queen has no basis in fact or law.

Respondents' counter-arguments:

Respondents contend that the Decision dated October 22, 2018 by the District Collector is now final and executory; and that, in the alternative, respondents COC and District Collector did not commit any error when they ordered the forfeiture of MV Northern Queen in favor of the government.

THE COURT'S RULING

The Petition for Review lacks merit.

The Decision of respondent District Collector has not yet attained finality. The circumstances warrant a relaxation of procedural rules with respect to the payment of docket fees.

In the assailed Decision of respondent COC,[34] it was found that petitioners' failure to timely pay the required appeal fee was borne out of the following circumstances:

---

[34] COC's Decision dated May 28, 2019, Docket - Vol. I, p. 39; Par. 28, Petition for Review, vis-à-vis Par. 40, Answer, Docket - Vol. I, pp. 15 and 222, respectively.

1. When petitioners filed their appeal on November 12, 2018, the cashier at the Port of Cebu did not know the correct amount to be paid for the appeal fee;

2. The next day, petitioners obtained a Manager's Check for the amount of the appeal fee but the wrong payee was indicated in the check; and

3. Petitioners were only able to obtain the Manager's Check with the correct payee and amount to be paid on November 14, 2018, or two days after the deadline for perfecting the appeal.

Citing the case of *Sps. Curata v. Philippine Ports Authority,*[35] respondent COC held that the aforementioned circumstances surrounding petitioners' failure to pay the appeal fee within the reglementary period warrant a relaxation and liberal construction of the rules of procedure.

The above ruling of the COC was not disputed by respondents in their Answer. However, respondents, in their Memorandum filed on July 26, 2022, argued that respondent District Collector's Decision dated October 22, 2018 already attained finality in view of petitioners' failure to pay the appeal fee at the time of filing the Notice of Appeal on November 12, 2018. Respondents allege that petitioners' Manifestation and Compliance filed on November 14, 2018, with attached photocopy of BDO Manager's Check No. 0013989 dated November 13, 2018 for payee BOC for the amount of ₱3,030.00 representing the appeal fee, does not show whether the actual Manager's Check was received by either the District Collector or the COC.

The Court finds no reversible error in respondent COC's relaxation of the rules of procedure. Respondent COC correctly considered the circumstances of the present case and applied by analogy the ruling of the Supreme Court in *Sps. Curata*. Notably, in

---

35 G.R. No. 154211, June 22, 2009.

Tanengian vs. Lorenzo, et al.,[36] the Supreme Court held that where the party showed willingness to abide by the rules by immediately paying the required fees and considering the importance of the issue raised, the same calls for judicial leniency. To wit:

> The general rule is that appeal is perfected by filing a notice of appeal and paying the requisite docket fees and other lawful fees.
>
> However, all general rules admit of certain exceptions. In *Mactan Cebu International Airport Authority v. Mangubat,* where the docket fees were paid six days late, we said that **where the party showed willingness to abide by the rules by immediately paying the required fees and taking into consideration the importance of the issues raised in the case, the same calls for judicial leniency**, thus:
>
>> In all, what emerges from all of the above is that the rules of procedure in the matter of paying the docket fees must be followed. However, there are exceptions to the stringent requirement as to call for a relaxation of the application of the rules, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Concomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules. Anyone seeking exemption from the application of the Rule has the burden of proving

---

36 *Tanengian v. Lorenzo, et al.,* G.R. No. 173415, March 28, 2008.

> that exceptionally meritorious instances exist which warrant such departure.[37]

As to this procedural matter, the Court finds no reason to disturb the findings of respondent COC. Thus, the Court shall proceed to address the merits of the case.

Petitioners' liability to pay customs duties and taxes attached right after the expiration of the bareboat charter authority.

Under the Tariff and Customs Code of the Philippines ("TCCP"), all articles imported from any foreign country into the Philippines shall be subject to duty upon each importation. Section 100 of the TCCP states:

> SECTION 100. Imported Articles Subject to Duty. — **All articles when imported from any foreign country into the Philippines, shall be subject to duty upon each importation**, even though previously exported from the Philippines, except as otherwise specifically provided for in this Code or in other laws.[38]

In connection thereto, Section 1202 of the TCCP provides:

> Section 1202. When Importation Begins and Deemed Terminated. - **Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. Importation is deemed terminated upon payment of the duties, taxes and other charges due upon the articles**, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.[39]

---

37 Emphasis supplied.
38 Emphasis supplied.
39 Emphasis supplied.

In conjunction thereto, Presidential Decree (PD) No. 760,[40] as amended, temporarily gives a foreign-owned vessel the rights and privileges of a vessel of Philippine registry. Section 1 of PD No. 760, as amended, provides:

> SECTION 1. Any provision of law, decree, executive order, or rules and regulations to the contrary notwithstanding, **any foreign-owned vessel under time charter or lease to a Philippine national,** as the term is defined in Section 3 of Presidential Decree No. 474, **may be issued a temporary certificate of Philippine registry by the Maritime Industry Authority**: Provided, That the said Charter or lease (1) **has had the prior written approval of the Maritime Industry Authority, (2) shall be valid and effective for a period of not less than five years, and (3) shall be used exclusively in the coastwise trade in the Philippines**: Provided, further, That **the operation of the vessel shall be entirely in the hands of Philippine nationals and free from any participation or interference from the alien owner**, except insofar as such action shall be to directly protect his rights as owner thereof: Provided, finally, That **the registered vessel shall be manned completely by a Filipino crew**, except in the case of specialized fishing vessel.[41]

Section 2 of PD No. 760, as amended, provides:

> Section 2. Any vessel issued a temporary certificate of Philippine registry as provided for in the section immediately preceding shall be entitled to all the rights and privileges of a vessel of a Philippine registry, as well as the protection of Philippine law **so long as its temporary certificate of registration is valid and subsisting**. Correspondingly, the vessel shall also be subject to all requirements, limitations and all the duties and obligations imposed upon vessels of Philippine registry.[42]

The law is clear that a valid and subsisting temporary certificate of Philippine registry from the MARINA is imperative for a foreign-owned vessel to enjoy the rights and privileges of a vessel of a Philippine registry (*i.e.*, exemption from payment of import taxes and duties).

---

40 Allowing The Temporary Registration of Foreign-Owned Vessels Under Time Charter or Lease to Philippine Nationals for Use in The Philippine Coastwise Trade Subject to Certain Conditions, July 31, 1975.

41 Emphasis supplied.

42 Emphasis supplied.

Here, it is undisputed that when MV Northern Queen arrived in the Sub-Port of Mactan on October 19, 2007, a re-export bond valid until April 19, 2008 was posted for the vessel. Thereafter, petitioners applied for a bareboat charter authority or a temporary certificate of Philippine registry from the MARINA. Because of their application for a bareboat charter authority, petitioners were not required to pay the necessary customs and taxes pursuant to Section 1 of PD No. 760, as amended.

Petitioners were then granted by the MARINA a bareboat charter authority for MV Northern Queen on November 19, 2007 which was valid for a period of one (1) year. The DOF then allowed the release of MV Northern Queen on February 17, 2008 without payment of duties and taxes subject to the following conditions: 1) posting of a bond in an amount equivalent to One Hundred Fifty Percent (150%) of the duties and taxes, and 2) the re-exportation thereof or the payment of duties and taxes upon termination of the charter period. Simply put, the BOC initially treated MV Northern Queen's original entry into the Philippine waters as a conditional free importation in view of the bareboat charter authority granted to the vessel.

With the knowledge of the bareboat charter authority granted to the vessel and that it was released under a re-export bond, petitioners should have known that its original entry was subject to specific conditions, among them, the obligation to guarantee the re-exportation of the vessel within a given period, or otherwise pay the customs duties on the vessel[43] upon expiration of the bareboat charter authority.

Considering, however, petitioners' failure to re-export the vessel after the expiration of the bareboat charter authority on November 18, 2008, the liability to pay the import duties already attached right after the expiration of said bareboat charter authority.

As correctly argued by respondents, there is nothing in the TCCP that exempts petitioners from payment of taxes and duties upon expiration of a bareboat charter privilege. On the contrary, it

---

43 *Secretary of Finance v. Oro Maura Shipping Lines*, G.R. No. 156946, July 15, 2009.

was the bareboat charter which gave MV Northern Queen the rights and privileges of a vessel of a Philippine registry and enabled the release of the said vessel from customs custody without payment of taxes and duties.

The subsequent posting and renewal of the re-export bond is of no moment as the bareboat charter authority had already expired.

In any event, petitioners argue that they validly posted and renewed their original re-export bond with validity until April 16, 2009 on September 30, 2008, even before the expiration of the charter period. According to them, from October 2007 to April 16, 2009, they are not liable to pay customs duties and taxes considering that the vessel is secured with a valid re-export bond and that the vessel already left the Philippines within said period.

Petitioners further explain that the vessel was conditionally released without the payment of duties and taxes upon posting of re-exportation bond. While under a valid re-export bond, and provided that the condition on the re-exportation of the vessel within a given period is complied with, the vessel is not liable to pay customs duties and taxes.

The Court does not agree.

The posting of re-export bond by petitioners is inconsequential as petitioners' bareboat charter authority had already expired and was not renewed by petitioners. It bears stressing that the re-export bond draws its validity from the bareboat charter authority issued by the MARINA. Its purpose is to guarantee compliance of petitioners' undertaking with the BOC to re-export the imported vessels within the given period and pay the taxes and/or duties due thereon.[44] Thus, as a consequence of the expiration of the bareboat charter authority, the importation of MV Northern Queen changed from

---

[44] *Autocorp Group v. Intra Strata Assurance Corp.*, G.R. No. 166662, June 27, 2008.

being a conditional free importation to a regular importation subject to duties.

In fact, petitioners should have immediately re-exported MV Northern Queen or paid the taxes and duties due thereon after the expiration of the bareboat charter authority. Afterall, the release of said vessel was predicated on said bareboat charter authority and had there been none, petitioners would have been required to immediately pay the taxes and duties thereon.

Besides, Section 800(b) of the Customs Modernization and Tariff Act is inapplicable in this case.

Petitioners allege that Section 800 paragraph (b) of Republic Act ("RA") No. 10863 or the Customs Modernization and Tariff Act ("CMTA"),[45] allowed the BOC to extend the time of exportation or payment of duties, taxes and other charges for a term not exceeding six (6) months from the expiration of the original period.

Section 800 (b) of the CMTA reads:

> SECTION 800. Conditionally Tax and/or Duty-Exempt Importation. — The following goods shall be exempt from the payment of import duties upon compliance with the formalities prescribed in the regulations which shall be promulgated by the Commissioner with the approval of the Secretary of Finance: Provided, That goods sold, bartered, hired or used for purposes other than what they were intended for and without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the goods had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs laws: Provided, however, That a sale pursuant to a judicial order or in liquidation of the estate of a deceased person shall not be subject to the preceding proviso, without prejudice to the payment of duties, taxes and other charges: Provided, further, That the President may, upon the recommendation of the Secretary of

45 Customs Modernization and Tariff Act, Republic Act No. 10863, May 30, 2016.

> Finance, suspend, disallow or completely withdraw, in whole or in part, any conditionally free importation under this section:
>
> > . . .
> >
> > (b) Equipment for use in the salvage of vessels or aircrafts, not available locally, upon identification and the giving of a security in an amount equal to one hundred percent (100%) of the ascertained duties, taxes and other charges thereon, conditioned for the exportation thereof or payment of corresponding duties, taxes and other charges within six (6) months from the date of acceptance of the goods declaration: Provided, That the Bureau may extend the time for exportation or payment of duties, taxes and other charges for a term not exceeding six (6) months from the expiration of the original period; . . .

A perusal of the records, however, shows that petitioners failed to present evidence to prove that the vessel imported in this case is an equipment for use in the salvage of vessels or aircrafts that is not available locally. It is also important to note that the CMTA was enacted on May 30, 2016, while the importation in this case happened sometime in October of 2007. Even in the earlier provision under Section 105 of the TCCP, which was later amended by Section 800 of the CMTA, the Court did not find basis in petitioners' claim that the BOC validly extended the period for re-exportation of the vessel with the issuance of the re-exportation bond on September 30, 2008. As such, petitioners' allegation that there was a valid re-exportation of the vessel in this case is utterly bereft of merit.

There is substantial evidence to justify the seizure and forfeiture of the vessel.

As a last-ditch effort to persuade the Court, petitioners argued that the forfeiture of the vessel has no factual and legal basis. For petitioners, the vessel's importation was not effected or attempted contrary to law or through any of the acts mentioned in Section 1113, paragraphs (f) and (l) of the CMTA.[46]

---

46 SECTION 1113. Property Subject to Seizure and Forfeiture. – Property that shall be subject to seizure and forfeiture include:

In this regard, the Court quotes a portion of the assailed Decision of respondent District Collector dated October 22, 2018 which was affirmed by respondent COC.[47] The part reads:

> Claimant's failure to establish by way of substantial evidence that M/V Northern Queen actually departed the Port of Mactan on 06 March 2009 confirms the validity of the seizure and forfeiture of the said marine vessel pursuant to Section 2534 of the Tariff and Customs Code of the Philippines which provides:
>
>> SEC. 2534. Seizure of Vessel or Aircraft for Delinquency of Owner or Officer. - When the owner, agent, master, pilot in command or other responsible officer of any vessel or aircraft becomes liable to be fined under the tariff and customs laws on account of a delinquency in the discharge of a duty imposed upon him with reference to the said vessel or aircraft, the vessel or aircraft itself may be seized and subjected in an administrative proceeding for the satisfaction of the fine or which such person would have been liable.

. . .

(f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;

. . .

(l) Goods sought to be imported or exported:

> (1) Without going through a customs office, whether the act was consummated, frustrated, or attempted;
>
> (2) Found in the baggage of a person arriving from abroad and undeclared by such person;
>
> (3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such goods;
>
> (4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or
>
> (5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

47 Collector's Decision dated October 22, 2018, Docket - Vol. I, pp. 27 to 37; Par. 25, Petition for Review, vis-à-vis Par. 37, Answer, Docket - Vol. I, pp. 14 and 222, respectively.

> It can be recalled that a demand was made by the Bureau of Customs in October 2011 to Capt. Jens Hansen for the payment of duties and taxes for the vessel Northern Queen on the ground that despite the expiry of the charter authority in November 2008, the vessel was still in Philippine waters. Consequently, the warrant of seizure and detention against the vessel was issued considering that the demand went unheeded.
>
> Furthermore, assuming without admitting that M/V Northern Queen had indeed left for Haikou, China and returned on October 2009, the fact alone that the vessel has been overstaying for more than eight (8) years is indicative that Claimant intends to use M/V Northern Queen in the Philippines, and thus, subject to payment of duties and taxes.

The Court agrees with respondents. It is clear that petitioners are liable for duties and taxes considering that MV Northern Queen extended its stay in the Philippines after the expiration of its bareboat charter authority and petitioners never presented any proof of its repairs nor any justification for its long stay in the country.

Further, based on the records of the case, Captain Jens A. Hansen ignored the demand of respondent District Collector, made through a letter dated October 12, 2011, to pay the duties and taxes due on the MV Northern Queen. Petitioners, thereafter, merely relied on the renewed re-export bond posted for the vessel. The Court finds petitioners' acts to evade the payment of import duties and taxes at the proper time as patently contrary to law and good faith.

It is well-settled that seizure and forfeiture proceedings under the tariff and customs laws are not criminal in nature but are rather purely civil and administrative in character; the main purpose of which is to enforce the administrative fines or forfeiture incident to unlawful importation of goods or their deliberate possession.[48] The degree of proof required is merely substantial evidence which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[49]

---

48 *People of the Philippines v. Court of First Instance of Rizal, Branch IX, Quezon City, et al.*, G.R. No. L-41686, November 17, 1980; *Feeder International Line, Pte., Ltd. v. Court of Appeals, et al.*, G.R. No. 94262, May 31, 1991.

49 *Feeder International Line, Pte., Ltd. v. Court of Appeals, et al.*, G.R. No. 94262, May 31, 1991.

Taking altogether the facts and circumstances surrounding the case, as well as the overall conduct of petitioners, it is clear that respondents District Collector and COC fittingly held that there is substantial evidence of violation of the TCCP. As a result, MV Northern Queen was correctly subjected to seizure and forfeiture under Section 2530 (f) and (l) of the TCCP (now Section 1113, paragraphs (f) and (l) of the CMTA).

As a final note, it must be stressed that there is a well-established presumption that government officials perform their functions with regularity. Clear and convincing evidence is required to disprove this presumption.[50] Unfortunately, petitioners failed to submit sufficient and convincing evidence that will overcome said presumption.

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. Accordingly, the assailed Decisions dated October 22, 2018 and May 28, 2019 rendered by respondents District Collector and Commissioner of Customs, respectively, are **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

---

50 *Yap v. Lagtapon*, G.R. No. 196347, January 23, 2017.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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