REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GOLDMINE RICE MARKETING, REPRESENTED BY ITS PROPRIETOR/GENERAL MANAGER, MR. ORLANDO C. MANUNTAG,
Petitioner,

- 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.

CTA CASE NO. 10578

Members:

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

Promulgated:

SEP 23 2021 10:23am

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RESOLUTION

On July 9, 2021, petitioner Goldmine Rice Marketing filed a **"Petition for Duty and Tax Refund"** praying that the Office of the District Collector of Customs, and the Office of the Commissioner of the Bureau of Customs (BOC), headed by Hon. Rey Leonardo Guerrero, be enjoined to effect the refund of the over-charged tax that said respective offices allegedly unduly collected from petitioner amounting to ₱1,207,282.41 on its imported white rice.

In three (3) separate BOC Single Administrative Documents[1] (SADs), petitioner declared that it is importing white rice from Vietnam and Myanmar with a duty/tax due thereon amounting to ₱10,030,045.68.

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[1] Annex "2-a", Petition for Duty and Tax Refund (Petition), Docket, pp. 11 and 26; Annex "3", Petition, Docket, p. 41.

On May 7, 14 and 17, 2021, respectively, petitioner paid the total assessed amount of ₱11,237,328.09 under protest[2] as evidenced by its Statements of Settlement of Duties and Taxes,[3] *viz.*:

BOC SAD Reference Number	Declared Duty/Tax Due in the SAD	Duty/Tax Paid Under Protest	Variance
GLRM1050403 dated May 4, 2021[4]	₱ 3,643,401.74	₱ 4,339,153.16	₱ 695,751.42
GLRM1051202 dated May 12, 2021[5]	₱ 3,193,321.97	₱ 3,446,555.13	₱ 235,233.16
GLRM1051401 dated May 14, 2021[6]	₱ 3,193,321.97	₱ 3,451,619.80	₱ 258,297.83
TOTALS	**₱ 10,030,045.68**	**₱ 11,237,328.09**	**₱ 1,207,282.41**

Petitioner alleges that on May 14, 2021 and May 25, 2021, respectively, it submitted a Protest and Appeal for Duty and Tax Refund to the Office of the Commissioner of BOC praying for the grant of an 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.[7] Due to the alleged inaction,[8] petitioner filed the present Petition pursuant to Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), as amended. Allegedly, there is no appeal or any other practical, expedient, plain, speedy and adequate remedy in the ordinary course of law.[9]

Evidently, petitioner is appealing the alleged inaction of respondent Commissioner of Customs (COC) on its Protest and Appeal for Duty and Tax Refund.

After careful evaluation of the allegations in the present **"Petition for Duty and Tax Refund,"** the Court finds that it lacks jurisdiction over the subject matter thereof.

The Court of Tax Appeals (CTA) is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[10] The jurisdiction of the CTA regarding liability for customs duties, fees and other money charges is provided under Section

[2] Paragraph 3, Petition, Docket, p. 6.
[3] Annex "1", Petition, Docket, pp. 9, 24 and 38.
[4] Annex "2-a", Petition, Docket, p. 11.
[5] Annex "1", Petition, Docket, p. 24.
[6] Annex "3", Petition, Docket, p. 41.
[7] Paragraph 2, Petition, Docket, pp. 5-6.
[8] Paragraph 1, Petition, Docket, p. 6.
[9] Paragraph 5. Petition, Docket, p. 6.
[10] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014.

7(a)(4) of Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

"SEC. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx xxx xxx

(4) **Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges**, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto**, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs**;" *(Boldfacing supplied)*

In relation thereto, Section 3, Rule 4 of the RRCTA, as amended, specifically includes the decision of the COC as one of the cases falling within the jurisdiction of the CTA in Division, to wit:

"SEC. 3. Cases within the **jurisdiction of the Court in Division.** - The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

xxx xxx xxx

(4) **Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges**, seizure, detention or release of property affected, fines, forfeitures of other penalties in relation thereto, **or other matters arising under the Customs Law or other laws administered by the Bureau of Customs**;" *(Boldfacing supplied)*

Corollary thereto, Section 3(a), Rule 8 of the RRCTA, as amended, provides the period within which the decision of the COC may be appealed with the CTA, to wit:

"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**, or expiration of the period fixed by law for the

> Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes." *(Boldfacing supplied)*

It is clear from the afore-cited provisions that the CTA in Division shall exercise exclusive original jurisdiction to review by appeal decisions of the COC in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the BOC.

In the present case, however, an examination of the allegations in the "Petition for Duty and Tax Refund" shows that the COC has yet to render a decision on petitioner's Protest and Appeal for Duty and Tax Refund filed on May 14 and 25, 2021. The filing of the "Petition for Duty and Tax Refund" is premised on the alleged inaction of the COC. **Inaction by the COC on cases involving liability for customs duties, fees or other money charges is not one of the subject matters which may be the subject of an appeal and over which the CTA may exercise jurisdiction.** Otherwise stated, the Court lacks jurisdiction over the subject matter of the Petition.

Parenthetically, courts may order the *motu proprio* dismissal of a case on the ground of lack of jurisdiction over the subject matter pursuant to Section 1, Rule 9 of the Rules of Court,[11] which reads:

> "Section 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter**, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, **the court shall dismiss the claim**." *(Boldfacing supplied)*

It is the duty of the courts to consider the question of jurisdiction before they look into other matters involved in the case, even though such question is not raised by any of the parties.[12] Lack of jurisdiction is one of those excepted grounds where the court may dismiss a claim or a case at any time when it appears from the pleadings or the

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[11] *Elizabeth M. Lansangan vs. Antonio S. Caisip*, G.R. No. 212987, August 6, 2018.
[12] *Bureau of Customs vs. The Honorable Agnes VST Devanadera, Acting Secretary, Department of Justice, et al.*, G.R. No. 193253, September 8, 2015.

evidence on record that any of those grounds exists, even if they were not raised in the answer or in a motion to dismiss. The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[13] Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action**.[14]

Moreover, even assuming that the Court has jurisdiction over the subject matter of the present Petition, its outright dismissal is warranted for lack of proper verification.

A perusal of the Verification and Certification of Non-Forum Shopping[15] shows that the same is non-compliant with Section 4, Rule 7 of the Rules of Court, as amended, *viz.*:

> "Section 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.
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> 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:
>
> (a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;
>
> (b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
>
> (c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
>
> The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.
>
> **A pleading required to be verified that** 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**." *(Boldfacing supplied)*

The Verification and Certification of Non-Forum Shopping does not contain statements attesting that: (*i*) the allegations in the pleading are true and correct based on his or her personal knowledge, or based

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[13] *Honorio Bernardo vs. Heirs of Eusebio Villegas*, G.R. No. 183357, March 15, 2010.
[14] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.
[15] Petition, Docket, p. 7.

on authentic documents; *(ii)* the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and, *(iii)* the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

It is also noted that petitioner's representative, Mr. Orlando C. Manuntag, signed the Petition as its **Proprietor/General Manger.** Yet, paragraph 1 of the "Verification and Certification of Non-Forum Shopping" states that he is acting in representative capacity as the **President** of petitioner.

Considering that the "Petition for Duty and Tax Refund" lacks a proper verification, the same may be dismissed pursuant to Section 3, Rule 42 of the Rules of Court[16] in relation to Section 1, Rule 42 of the Rules of Court.[17]

WHEREFORE, in view of the foregoing, petitioner's "Petition for Duty and Tax Refund" is hereby **DISMISSED** for lack of jurisdiction and for lack of proper verification pursuant to Section 3, Rule 42 of the Rules of Court in relation to Section 1, Rule 42 of the Rules of Court.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN	***ON LEAVE*** **MARIAN IVY F. REYES-FAJARDO**
Associate Justice	Associate Justice

[16] 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**.

[17] Section 1. *How appeal taken; time for filing.* — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may **file a verified petition for review** with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.