

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

**RUBILLS INTERNATIONAL, INC. and
FIL HAUS ENTERPRISES, represented
by LEANDRO ANTONIO P. TALAUE,**

Petitioners,

- versus -

**Customs Commissioner NAPOLEON L.
MORALES, District Collector HORACIO D.
SUANSING, JR., ATTY. TRISTAN ARMANDO III
F. LANGKAY, ATTY. ROGEL GATCHALIAN,**
Respondents.

C.T.A. CASE NO. 7782

Members:

**ACOSTA, Chairperson
BAUTISTA, and
CASANOVA, JJ.**

Promulgated:

SEP 29 2008 ; *giran*

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RESOLUTION

This resolves:

1. respondents' **"MOTION TO DISMISS"** filed on July 24, 2008;
2. petitioners' **"COMMENT/OPPOSITION (TO RESPONDENTS' MOTION TO DISMISS)"** filed on August 8, 2008;
3. respondents' **"REPLY"** filed on August 15, 2008; and
4. petitioners' **"REJOINDER"** filed on September 1, 2008.

In their Motion, respondents aver that this Court has no jurisdiction over the subject matter of the case. They cite as bases Section 7(4) of the Republic Act No. (RA) 1125, as amended by RA 9282, and Section 2313 of the Tariff and Customs Code. Respondents submit that the law conferring jurisdiction to this Court does not include the power to review the orders or decisions of the Collector of Customs. In

this instant case, the assailed Orders dated April 15, 2008 and April 30, 2008 were both rendered by respondent Horacio Suansing, Jr, District Collector of Customs of the Port of Manila; thus, to allow petitioners to directly appeal the orders issued by the Collector of Customs would render nugatory the power of supervision and control of the Commissioner of Customs over the actions of the Collectors of Customs, pursuant to Section 2313 of the Tariff and Customs Code of the Philippines, which provides that

Section 2313. Review of Commissioner. - The person aggrieved by the decision of action of the Collector in any manner presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the Collector of his action or decision, file a written notice to the Collector with a copy furnished to the Commissioner of his intention to appeal the action or decision of the Collector to the Commissioner.

On the other hand, petitioners claim that this case falls under the exception on exhaustion of administrative remedies; there being a denial of due process on its part; and that the dismissal of this case will again result in the denial of the same.

According to petitioners, it was denied due process when, without prior notice, an auction was conducted on petitioners' shipments of flour which were forfeited by the Collector of Customs (Collector). Petitioners further argue that since the subject shipments have already been auctioned off, resort to the Commissioner of Customs (Commissioner) would not be an adequate and speedy remedy, and thus, resort to judicial processes, as in this case, is the ultimate remedy.

This Court finds merit in respondents' motion.

Section 2313 of the Tariff and Customs Code states:

*SEC. 2313. Review by Commissioner. — The person aggrieved by the **decision or action** of the Collector in any matter presented upon protest or by his **action in any case of seizure** may, **within fifteen (15) days after***

***notification in writing by the Collector of his action** or decision, give written notice to the Collector and one copy furnished to the Commissioner of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the **action** or decision of the collector and take such steps and make such orders as may be necessary to give effect to his decision.*
(Emphases supplied)

It is clear from the foregoing that an "action" of the Collector is subject to the review powers of the Commissioner, and that an aggrieved party may file a written notice invoking such powers within fifteen (15) days after being notified of such "action". As the term "action" is couched in general terms, it must necessarily include the act of "auctioning", which in this case, was conducted by the Collector on the subject forfeited shipments of petitioners. Thus, petitioners cannot validly claim that there was no "*adequate and speedy remedy*" to justify their direct resort to this Court.

Neither was there violation of due process.

When the Collector of Customs issued an order¹ of forfeiture of the subject shipments on April 15, 2008, petitioners immediately or on April 24, 2008 filed a Motion for Reconsideration and/or Appeal² of such order. Acting on such Motion, the Collector denied the same through an Order dated April 30, 2008³.

It has been held that the essence of due process in administrative proceedings is an opportunity to explain one's side OR an opportunity to seek reconsideration of the action or ruling complained of.⁴ Thus, denial of due process

¹ Annex "C", Petition.

² Annex "D", *Id.*

³ Annex "E", *Id.*

⁴ *Emin vs. De Leon, et al.*, G.R. No. 139794, February 27, 2002.

cannot be successfully invoked by a party who has had the opportunity to be heard on his motion for reconsideration.⁵

There being no violation of due process, and finding that there is in fact an adequate and speedy remedy available to petitioner, the latter's immediate resort to judicial action is not justified.

Moreover, it is undoubted that fidelity to the basic concept of exhausting administrative remedies calls for the equally fundamental principle of primary jurisdiction to be respected.⁶

The question of seizure and forfeiture is for the Collector to determine in the first instance and then the Commissioner.⁷ This is a field where the doctrine of primary jurisdiction controls.⁸ Thereafter, an appeal may be taken to this Court.⁹

Under the sense-making and expeditious doctrine of primary jurisdiction, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal prior to the decision of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered.¹⁰

⁵ *Chua vs. Court of Appeals, et al.*, G.R. No. 116835, March 5, 1998.

⁶ *Philippine Global Communications, Inc. vs. Relova, et al.*, G.R. No. L-52819, October 2, 1980.

⁷ *Republic of the Philippines vs. Court of First Instance of Manila (Br. XXII), et al.*, G.R. No. L-43747, September 2, 1992.

⁸ *Id.*

⁹ *Id.*; Section 7(4) of the Republic Act No. (RA) 1125, as amended by RA 9282.

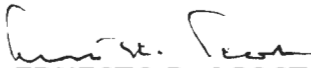
¹⁰ *Malayan Integrated Industries Corporation vs. Mendoza, et al.*, G.R. No. 75238, September 30, 1987; *Spouses Abejo, et al. vs. De la Cruz, et al.*, G.R. Nos. L-63558 and L-68450-51, May 19, 1987; *Saavedra, Jr., et al. vs. Securities and Exchange Commission, et al.*, G.R. No. L-80879, March 21, 1988; *Presidential Commission on Good Government vs. Peña, et al.*, G.R. No. L-77663, April 12, 1988; *Blue Bar Coconut Philippines, et al. vs. Tantuico, Jr., et al.*, G.R. No. L-47051, July 29, 1988; *Torres vs. Court of Appeals, et al.*, G.R. No. 91934, May 27, 1991.

In this era of clogged court dockets, the need for specialized administrative boards or commissions with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or essentially factual matters, subject to judicial review in case of grave abuse of discretion, has become well high indispensable.¹¹

The doctrine of primary jurisdiction does not warrant a court to arrogate unto itself the authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence.¹²

WHEREFORE, premises considered, respondents' "**MOTION TO DISMISS**" filed on July 24, 2008 is hereby **GRANTED**. Accordingly, the instant Petition for Review filed on May 6, 2008 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice


CAESAR A. CASANOVA
Associate Justice

¹¹ *Id.*

¹² *Vidad, et al. vs. Regional Trial Court Negros Oriental, Branch 42, et al.*, G.R. Nos. 98084, 98922, and 100300-03, October 18, 1993.