REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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GREEN COIL INDUSTRIES, INC., Petitioner,	**CTA CASE NO. 8156**
	Members:
- versus -	**CASTAÑEDA, JR.**, *Chairperson* **CASANOVA,** and **MINDARO-GRULLA,** *JJ.*
SC JOHNSON & SONS, PHILS. INC. AND PHILIPPINE TARIFF COMMISSION, Respondents.	**Promulgated:** JUL 14 2011 3:10 p.m.

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RESOLUTION

On March 22, 2011, respondent SC Johnson & Sons, Phils. Inc. (SC Johnson) filed its **"Manifestation with Omnibus Motion (To 1. Set Preliminary Hearing on Affirmative Defenses 2. Defer the Pre-Trial Conference)"**, submitting that the scheduled Pre-trial Conference should be deferred and that this Court should first resolve its affirmative defense regarding this Court's lack of jurisdiction over the instant petition and the consequences of petitioner's act of forum shopping.

During the hearing held on March 31, 2011, the parties presented their respective oral arguments with regard to the issue on this Court's lack of jurisdiction over the instant petition; then, they were given thirty days to file their respective memorandum to further elaborate on their arguments on the said issue.

Hence, the **"Memorandum"** was filed on April 29, 2011 by respondent SC Johnson, to support its argument that the instant case should be dismissed for lack of jurisdiction as follows:

I. This Honorable Court lacks jurisdiction as to subject matter to review the Tariff Commission Report;

II. This Honorable Court lacks jurisdiction to review the DTI order; and

III. Green Coil failed to state a claim for which relief can be granted.

On May 23, 2011, petitioner filed its **"Memorandum In Support of the Opposition to the Affirmative Defenses"**, praying for the denial of respondent SC Johnson's affirmative defense.

Anent the first ground, respondent SC Johnson claims that this Court lacks jurisdiction to review the "*Report on the Final Determination on the application of the Philippines Mosquito Coil Industry for the Imposition of Definitive Anti-Dumping Measures Against the Importation of Mosquito Coil from Indonesia*" [1] (Report), issued by public respondent Philippine Tariff Commission (Commission).

Respondent SC Johnson contends that the Commission is not one of the limited and specifically enumerated bodies over which this Court has

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[1] Annex "B", Petition for Review, Rollo, pp. 64-98.

jurisdiction. The limited statutory grant of jurisdiction is intentional because the "Report" is merely advisory and is subject to adoption by the Secretary of Trade and Industry. Respondent states that only the decision of the Secretary of Trade and Industry is appealable to this Court.

Petitioner maintains that the governing law is Republic Act (RA) 8752. Section 21 of the Implementing Rules and Regulations provided the manner of appeal by any interested party in an anti-dumping investigation who is adversely affected by a final ruling in connection with the imposition of an anti-dumping duty, *that is*, a petition for the review filed with this Court within thirty (30) days from receipt of notice of the final ruling.

Petitioner argues that RA 8752 is silent and not categorical as to whose "final ruling" can be the subject of appeal by way of petition for review before this Court.

We find respondent SC Johnson's arguments meritorious.

The jurisdiction of the Court of Tax Appeals is governed by Section 7 of Republic Act (RA) 1125, as amended, *viz*:

> "SEC. 7. *Jurisdiction*. - The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> > (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
(3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

(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;

(5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(6) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review, from decisions of the Commissioner of Customs which are adverse to the Government under Sec. 2315 of the Tariff and Customs Code;

(7) **Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product**, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, **involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code**, and safeguard measures under Republic Act No. 8800, **where either party may appeal the decision to impose or not to impose said duties**.

(b) Jurisdiction over cases involving criminal offenses as herein provided:

(1) Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue and the Bureau of Customs: *Provided, however*, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filling of such civil action separately from the criminal action will be recognized.

(2) Exclusive appellate jurisdiction in criminal offenses:

(a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respected territorial jurisdiction.

(b) Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction.

(c) Jurisdiction over tax collection cases as herein provided:

(1) Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: *Provided, however*,

That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.

(2) Exclusive appellate jurisdiction in tax collection cases:

(a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.

(b) Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction." (*Emphasis supplied.*)

Based on the above-quoted provision, there is nothing in its language to support the conclusion that this Court has jurisdiction to review by appeal, the decisions, findings or reports of the Phillippine Tariff Commission (Commission). In stark contrast, the above law is clear that what is conferred upon this Court, among others, is to review the decision of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, involving dumping and countervailing duties under Section 301 of the Tariff and Customs Code.

Suffice it to say that the jurisdiction of a court to take cognizance of a case should be clearly conferred and should not be deemed to exist on mere implication, specifically with respect to this Court[2], being a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction.[3]

In the instant case, the subject matter of the petition for review is the "Report" dated August 4, 2010, issued by public respondent Commission. Admittedly however, RA 1125, as amended, failed to extend to this Court the power to review reports issued by the Commission in connection with its investigation on the imposition of anti-dumping duties. Thus, this Court has no authority to entertain the instant petition.

In fine, it is unnecessary to pass upon the other arguments raised by the parties.

WHEREFORE, premises considered, the instant **"Verified Petition for Review"** is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[2] Philippine Ports Authority vs. Fuentes, GR No. 91259, April 16, 1991.
[3] Ker & Co., Ltd. v. Court of Tax Appeals, L-12396, Jan. 31, 1962.