



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

Internal Admin. Group

Received by: VICKY REYES

Date: 06-26-15

Time: 10:40

OFFICE OF THE COMMISSIONER

1st Indorsement

23 June 2015

Respectfully forwarded to the Officer-in-Charge, Internal Administration Group, for comment, the herein folder within draft copy of Notice of Sale of Lot No. 01-15 (approx. 11,520 bags of rice) consigned to Masagana Import Export Inc. and Oriental Tradelink Express, with the information that this Office interposes **NO OBJECTION** to the scheduled Public Auction (sealed bidding) on 01 July 2015 and its public viewing on June 29 - 30, 2015, subject of 1st Indorsement from that Office dated 05 June 2015.

SILVERIO F. MONTALBO
Office of the Commissioner

Encl: a/s

15-07073

noticeofpublicauction/06.23.2015



Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS
Customs District XIII
Port of Subic
Olongapo City

NOTICE OF SALE

Pursuant to the provision for Section 2601 of the Tariff and Customs Code of the Philippines, as amended, and CAO 10-2007 dated 17 March 2003, there will be a PUBLIC AUCTION (sealed bidding) on July 1, 2015 from 9:00 A.M. until terminated at the Customs Conference Room, Bldg. 307, Canal Road, SBFZ, of the hereunder listed lots. Said items/goods shall be available for public viewing on June 29 & 30, 2015

In the event of failed bidding, the same shall be offered in a second auction to be held on the third business day following the first failed bidding at the same time and place with no reduction of the floor price and without need for further advertisement, except as to perishable items which may be auctioned again on the following business day.

The winning bidder shall be required to pay 50% of the bid price either in cash and/or manager's check at the end of the auction. For meritorious reasons, said bidders may be allowed to make such payment not later than two (2) hours from the awarding of the winning bid. The remaining balance of 50% of the price shall be paid on the next business day.

IMPORTANT:

Only registered bidders who have paid the Registration Fee of Two Thousand (Php2,000.00) Pesos and Cash Bond (refundable) of Twenty Thousand Pesos (Php. 20,000.00) are eligible to participate in the auction sale. All participants whether natural or juridical persons, must submit the latest Income and Business Tax duly stamped and received by the Bureau of Internal Revenue (BIR) and validate with tax payment made thereon as a pre-condition for registration of bidders in auction sales.

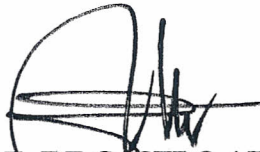
Interested bidders must submit to this Office their License to Operate, DTI registration certificate and Income Tax Return duly stamped by BIR (2014).

Registration starts at 9:00 A.M. and will close at 9:30 A.M. For further inquiry, please call the office of the District Collector at Tel. no. 047-252-3435.

Sale Lot No. 01-15 Forfeited: September 14, 2012 Consignee: Masagana Import Export Inc. And Oriental Tradelink Express. Php. 10, 212, 800.00	Approximately 11, 520 bags of rice "AS IS WHERE IS" Location: Bldg 1432 Warehouse at Boton Highway Subic Bay Freeport Zone.
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Guidelines:

1. Submission of all participants (whether natural or judicial persons) accomplished and duly notarized Bidder's Information Form, certified true copy of Income and Business Tax Returns duly stamped and received by the Bureau of International Revenue with the validated tax payment made thereon for the previous year, if applicable and other documents such as ID, tax clearance for 2014, if applicable, Community Tax Certificate, Business Permits, Certificate of Registration of Business Name issued by the Department of Trade and Industry or Security and Exchange Commission and the above mentioned requirements must be submitted on or before June 30, 2015.
2. The prospective bidder must be a duly-accredited grain trader/importer of the National Food Authority, who should bring with him such proof of accreditation at the time of registration. Grain trader's /importer's representatives are required to submit the notarized Board Secretary's Certificate authorizing them to bid for and behalf of the company.



BGEN. BONIFACIO T. DE CASTRO AFP (RET) MNSA
District Collector





Republic of the Philippines
 Department of Finance
BUREAU OF CUSTOMS
 Collection District XIII
 Port of Subic
 Subic Bay Freeport Zone

REPUBLIC OF THE PHILIPPINES

Seizure Identification No. 2012-001

-versus-

Shipment of 30x20' Container Van STC:
 Construction Goods and Supplies
 Gypsum Boards which arrived at this
 Port on 20 June 2012, from Vietnam on
 board the vessel APL Pusan V.940W
 covered by B/L No. APLU074676410,

MASAGANA IMPORT EXPORT, INC.
 Claimant.
 X-----X

REPUBLIC OF THE PHILIPPINES

Seizure Identification No. 2012-004

-versus-

Shipment of 10x20' Container Van STC:
 Construction Goods and Supplies
 Gypsum Boards which arrived at this
 Port on 20 June 2012, from Vietnam on
 board the vessel APL Pusan V340W,
 Voyage No. 947W covered by B/L No.
 APLU074676408

MASAGANA IMPORT EXPORT, INC.
 Claimant.

DECISION

This resolves the consolidated seizure and forfeiture cases instituted against the above-described shipments for violation of Section 2503, in relation to Section 2536 and Section 101 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and National Food Authority (NFA) rules and regulations.

James R. Conia, Jr.
 ATTY. IN CHIEF R. CONIA, JR.
 BUREAU OF CUSTOMS
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The facts of the instant cases are as follows:

**SEIZURE IDENTIFICATION NO. 2012-001
(30X20' Container Vans)**

On 20 June 2012, a shipment of 30x20' container van bearing Nos. APZU300831-8; APZU301233-9; APZU309256-6; APZU309750-5; APZU318602-7; APZU333920-6; APZU338400-1; APZU333850-0; APZU339454-5; APZU34118-0; APZU345454-1; APZU355257-4; APZU3578055-7; APZU366870-7; APZU367775-6; APZU377007-2; APZU381320-9; APZU382194-5; APZU390133-6; APZU392414-1; CAXU678015-0; CLHU320627-6; FCIU373129-3; GESU249045-2; GLDU555149-7; TCKU188542-8; TCKU297264-5; TCKU329757-3; TCLU228915-9 and TRLU309009-4 consigned to **MASAGANA IMPORT EXPORT, INC.** ("MASAGANA", for brevity) STC: 34,110 pcs. Constructional Goods and Supplies Gypsum Board, arrived at the Port of Subic from Ho Chi Minh, Vietnam, on board the vessel APL Pusan V948W with Registry No. APL0025-12, covered by Bill of Lading No. 074676410 and filed under Entry No. C2909-2012;

On June 22, 2012, purportedly acting on derogatory information received from a reliable source, Task Force - Revenue Enhancement for the Attainment of Collection Target (TF-REACT), Office of the Commissioner, issued Alert Order No. A/OC/20120622-103 against the 30x20' container vans with directive to conduct 100% examination thereon;

On 18 July 2012, the above-described shipment was subjected to examination by Ryan Anthony D. Cruz and Orlando C. Catud, Spotcheckers, Port of Subic, in the presence of Daniel F. Torralba, CHS-REACT, Subic Bay Metropolitan Authority (SBMA)/Terminal Operations Division, American President Lines (APL) representative and Manager of Subic Bay International Terminal Corporation, New Container Terminal (SBITC/NCT), with the following findings, to wit:

AS-MANIFESTED

- **34,110 pcs. Constructional Goods and Supplies Gypsum Board**

AS FOUND

- **Mango Brand Premium White Rice 50 kgs./bag**

In view of the above findings, the Officers-On-Case, Daniel F. Torralba and Hanah Darryl V. Bilog, recommended for the issuance of Warrant of Seizure and Detention (WSD) for misdeclaration and lack of Authority to Import Rice under the 2012 Private Sector Financed Program (PSF) of the NFA;

On 24 July 2012, finding existence of probable cause, Carmelita M. Talusan, OIC, District Collector, Port of Subic, issued a Warrant of Seizure and Detention (WSD) docketed as Seizure Identification No. 2012-001 against the subject shipment for violation of Section 2503 in relation to Sections 2530 and 101 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and NFA rules and regulations;

On 27 July 2012, WSD was served to MASAGANA's known address Brgy. Dela Paz, Bifan Citty, Laquna. Corollary thereto, on even date, a Memorandum for the

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District Collector, this Port, was submitted by Maj. Elpidio Jose R. Manuel, District Commander, Enforcement and Security Service (ESS), stating that a certain Jan Dexter Arzola Marfil, owner of MASAGANA, refused to receive the WSD and instead, reiterated his allegations contained in the Affidavit of Denial he executed on 15 July 2012.

Thereafter, the instant case was set for hearing on 9 & 10 August 2012 to give the claimant opportunity to refute the allegations and to defend against the object of the writ. However, during the scheduled hearings on the above-captioned case, claimant or any of its duly authorized representatives failed to appear despite notice. Nonetheless, the Law Division, this Port, scheduled another hearing set on 23 & 24 August 2012. Upon motion of the prosecution, the Hearing Officer ordered the posting of the Notice of Hearing including the WSD in this Port's bulletin boards;

During the scheduled hearing on 23 & 24 August 2012, Atty. Raulito A. Villar, Legal Service, appeared for the government. Despite due notice, herein claimant repeatedly failed to appear.

**SEIZURE IDENTIFICATION NO. 2012-004
(10X20' Container Van)**

On 20 June 2012, a shipment of 10x20' container van bearing Nos. APZU343855-6; FCIU321435-1; APZU392260-0; GESU314322-6; GLDU352787-1; GLDU358237-5; TCKU331234-3; TRLU385557-9; TTNU215554-5; and TTNU377756-4, consigned to MASAGANA IMPORT EXPORT, INC. ("MASAGANA", for brevity) STC: 11,370 pcs. Constructional Goods and Supplies Gypsum Boards, arrived at the Port of Subic from Ho Chi Minh, Vietnam, on board the vessel APL Pusan V948W with Registry No. APL0025-12, covered by Bill of Lading No. 074676408 and filed under Entry No. C2910-2012;

On 11 July 2012, based on derogatory information, Horacio P. Suanes, Jr. Deputy Commissioner, Enforcement Group (EG), issued Alert Circular A/EG/20120711-101 against the 10x20' container vans directing SA1 Larry Alhambra and SA1 Roldan Reyes to witness the 100% examination to be conducted by the assigned customs examiner;

On 19 July 2012, the above-described shipment was subjected to actual physical examination by COO III Ronnie Aguirre, Formal Entry Division, this Port, in the presence of assigned Officers-on-Case, SA1 Roldan Reyes and A/SA1 Larry Alhambra, Mary Joy R. Sanchez, License Customs Broker of MASAGANA, Ryan Cruz, Checker, this Port and Fidel Dela Cruz, Seaport Department, SBMA;

On 23 July 2012, the afore-named assigned Officers-on-Case submitted their Memorandum Report to Gen. George L. Aliño, OIC, EG, relative to the examination conducted on the subject shipment which resulted to the following findings, to wit:

AS MANIFESTED

AS FOUND

- 34,110 pcs. Constructional

- Mango Brand Premium White

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Thereafter, the afore-named Officers-on-Case recommended for issuance of Warrant of Seizure and Detention against the subject 10x20' container vans for violation of Section 2530 (f) and L-(3, 4 & 5) of the TCCP, as amended in relation to Section 2503, to which the OIC, EG, concurs;

On 24 July 2012, after finding existence of probable cause, Warrant of Seizure and Detention was issued by the District Collector, this Port, against the subject articles for violation of Section 2503 in relation to Sections 2530 and of the Tariff and Customs Code of the Philippines, as amended, and National Food Authority (NFA) regulations;

On 27 July 2012, WSD docketed as Seizure Identification No. 2012-01, 2012-04, served to MASAGANA's address on record at No. 2161, Paterno St., Brgy. Dela Paz, Biñan City, Laguna. Corollary thereto, on even date, a Memorandum for the District Collector, this Port, was submitted by Maj. Elpidio Jose R. Manuel, District Commander, Enforcement and Security Service (ESS), stating that a certain Jan Dexter Arzola Marfil, owner of MASAGANA, refused to receive the WSD and instead, reiterated his allegations contained in the Affidavit of Denial he executed on 15th July 2012.

Thereafter, the instant case was set for hearing on 9 & 10 August 2012 to give the claimant opportunity to refute the allegations imputed against the subject shipment. However, during the scheduled hearings on the above-captioned case, claimant or any of its duly authorized representatives failed to appear despite notice. Nonetheless, the Law Division, this Port, scheduled another hearing set on 23 & 24 August 2012. Upon motion of the prosecution, the Hearing Officer ordered the posting of the Notice of Hearing including the WSD in this Port's bulletin boards;


During the scheduled hearing on 23 & 24 August 2012, Atty. Raulito A. Villar, Legal Service, appeared for the government. Despite due notices, herein claimant MASAGANA, failed to appear.

Thereafter both cases, Seizure Identification Nos. 2012-01 & 2012-04 were submitted for resolution.

As earlier stated, the consolidation of this case was made to expedite this decision, in fact the Rules of Court explicitly provide as such:

"Rule 31 of the 1997 Rules of Court:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."


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It is noteworthy that section 2535 of the TCCP, as amended categorically provides, "that in all seizure proceedings taken for seizure and/or forfeiture of any articles under the provisions of the tariff and customs laws, burden of proof shall lie upon the claimant", which in the instant cases, altogether denies ownership of and any involvement in the importation of the subject shipment.

Herein, the named consignee, MASAGANA IMPORT EXPORT, INC., through the 18 July March 2012, Affidavit of the owner, a certain Jan Dexter A. Marfil, categorically denied having imported the subject shipment, alleging among others that:

1. "On July 18, 2012, I received a letter fro Bureau of Customs, District XIII, Port of Subic, informing me that I had a shipment dated June 20, 2012 on board APL with Registry No. APL0025-12 and covered by B/L Nos. APLU74676408 ans APLU74676410
2. That me or neither my company did not engage or related regarding the said transaction."

Thus, leaving the same without any claimant to present evidence on its behalf.

In the absence of any evidence to refute the violation charged against the subject shipments, this Office finds the above-captioned articles liable for forfeiture for having been imported in violation of Section 2503 and Section 101 in relation to Section 2530 of the TCCP, as amended.

Even with the express denial of claimant MASAGANA disowning the subject shipment, the Notices of Hearing and the WSD's were posted for more than fifteen (15) days in the bulletin board, as certified by Belinda F. Lim, Chief, Cash Division and Joel Gilbert P. Reyes, Acting Chief, Auction and Cargo Disposal Unit, Port of Subic, to serve as notices to interested party/ies.

It bears stressing that the Spotcheck Report dated 19 July 2012 pertaining to the 30x20' container vans; submitted by COO III Orlando R. Ronquillo, Team Leader Spotchecking Unit and Ryan D. Cruz, Spotchecker, this Port and witnessed by Daniel F. Torralba, TF-REACT and the actual examination on the 10x20' container vans conducted by COO III Ronnie Aguirre, Formal Entry Division, this Port, witnessed by the Officers-On-Case and License Customs Broker Mary Joy Sanchez and Raffy Daguma claimant's representative, unmistakably shows that the articles contained in the 30x20' and 10x20' container vans were declared in the import entry Nos. 2909-12 and 2910-12, respectively, as Construction Materials Gypsum Board while actual examination reveals that the same contained rice, hence, violative of Section 2503 and Section 2530 of the TCCP, as amended.

Be it emphasized that Section 2503 of the TCCP, as amended, explicitly directs the outright forfeiture of any articles found to be undeclared, to wit:

"Sec. 2503. Undervaluation, Misclassification and Misdeclaration in Entry. - When the dutiable value of the imported articles shall be so declared and entered that the duties.


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HEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that the subject shipment of 30x20' container van bearing Nos. APZU300831-8; APZU301233-9; APZU309256-6; APZU309750-5; APZU318602-7; APZU333920-8; APZU338400-1; APZU338850-0; APZU339454-5; APZU34118-0; APZU345454-1; APZU355257-4; APZU3575055-7; APZU366870-7; APZU367775-6; APZU377007-2; APZU381320-9; APZU382194-5; APZU390133-6; APZU392414-1; CAXU678015-0; CLHU320627-6; FCIU373129-3; GESU249045-2; GLDU555149-7; TCKU188542-8; TCKU297264-5; TCKU329757-3; TCLU228915-9 and TRLU309009-4 and the 10x20' container van bearing Nos. APZU343855-6; FCIU321435-1; APZU392260-0; GESU314322-6; GLDU352787-1; GLDU358237-5; TCKU331234-3; TRLU385557-9; TTNU215554-5; and TTNU377756-4, consigned to **MASAGANA IMPORT EXPORT, INC.** and covered by Warrants of Seizure and Detention dated 24 July 2012 docketed as Seizure Identification Nos. 2012-001 and 2012-004, respectively, be **FORFEITED** in favor of the government to be disposed of in the manner provided for by law.

Let copies of this Decision be furnished all parties and offices for their information and guidance.


SO ORDERED.

Port of Subic, Philippines, September 14, 2012.


CARMELITA M. TALUSAN
OIC, District Collector
Port of Subic

Copy Furnished:

Office of the Commissioner
Resident Auditor, COA
Enforcement Group
TF-REACT
ACDU, Port of Subic
RATS Group
Seaport Department SBMA
MASAGANA IMPORT EXPORT, INC.
No. 2161, P. Paterno St. Dela Paz, Binan City, Laguna


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Republic of the Philippines
 Department of Finance
BUREAU OF CUSTOMS
 Collection District XIII
 Port of Subic
 Subic Bay Freeport Zone

REPUBLIC OF THE PHILIPPINES

-versus-

SEIZURE IDENTIFICATION NO. 2012-002

Shipment of 30x20' container vans STC:
 Construction Goods & Supplies Gypsum
 Boards which arrived at this Port on 13 June
 2012, from Vietnam on board the vessel
 APL Pusan V.974 Voyage No. 947W covered
 by B/L No. APLU074676409.

ORIENTAL TRADELINK EXPRESS INC.
 Claimant.

X-----X

REPUBLIC OF THE PHILIPPINES

-versus-

SEIZURE IDENTIFICATION NO. 2012-002

Shipment of 20x20' container vans STC:
 Construction Goods & Supplies Gypsum
 Boards which arrived at this Port on June
 13, 2012 from Vietnam on board the vessel
 APL Pusan V974, Voyage No. 947W covered
 by B/L No. APLU074676407.

ORIENTAL TRADELINK EXPRESS INC.
 Claimant.

X-----X


CERTIFICATE OF FINALITY

This is to certify that as per records of this Port, the **Consolidated Decision**
 dated **September 14, 2012**, copy attached in the above-entitled case has become
Final and Executory on October 1, 2012.

Accordingly, the District Commander ESS-CPD Port of Subic, the Deputy
 Collector for Assessment and the Auction Cargo Disposal Committee, may now take the
 necessary action for its disposition in accordance with existing laws and regulations.

Issued this **1st day of October 2012** at the Port of Subic, Subic Bay Freeport
 Zone.


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CARMELOTA M. TALUSAN
 District Collector, Port of Subic

DECISION

This resolves the consolidated seizure and forfeiture cases instituted against the above-described shipments for violation of Section 2503, in relation to Section 2530 and Section 101 of the Tariff and Customs Code of the Philippines (TCCP), as amended and National Food Authority (NFA) rules and regulations.

The facts of the instant cases are as follows:


SEIZURE IDENTIFICATION NO. 2012-4502 (20X20' Container Vans)

On 13 June 2012, a shipment of 20x20' container van bearing Nos. APZU3252509/ APZU3322632/ APZU3455390/ APZU3490132/ APZU3699478/ APZU3819402/ APZU3917570/ APZU3974712/ APZU3977563/ FCIU3417723/ FCIU4088520/ GLDU3010132/ GLDU5117238/ TCKU3079798/ TCKU3553382/ XU3883865/ TGHU1579743/ TGHU2762975/ TGHU3080028/ TRLU3331680, consigned to **ORIENTAL TRADELINK EXPRESS, INC.** ("**ORIENTAL**", for brevity) STC: 22,740 pcs. Constructional Goods and Supplies Gypsum Board, arrived at the Port of Subic from Ho Chi Minh, Vietnam, on board the vessel APL Pusan V.974, Voyage No. 947W, covered by Bill of Lading No. 074676409;

On 18 June 2012, purportedly acting on derogatory information received from a reliable source, Errol B. Albano, then District Collector, Port of Subic, issued Alert Order No. SUB20120618-006 against the 20x20' container vans with directive to conduct 100% examination therein;

Thereafter, the above-described shipment was subjected to examination by Ryan Anthony D. Cruz and Orlando C. Canud, Spotcheckers, Port of Subic, in the presence of Danny Delos Reyes, ESS, representative from the Run After the Smugglers Program, Fidel Dela Cruz, Seaport Division, Subic Bay Metropolitan Authority (SBMA) and Santi Fuentes, Subic Bay International Terminal Corporation (SBITC);

On 19 July 2012, Spotcheck Report was submitted by the above named Officers-on-Case, duly noted by COO III Orlando R. Ronquillo, Formal Entry Division (FED), this Port, relative to the conduct of examination conducted which reveals that:


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AS MANIFESTED**AS FOUND**

- **STC: 22,740 pcs.**
Constructional Goods and
Supplies Gypsum Board

- **Mango Brand Premium White**
Rice 50 kgs./bag

In view of the above findings, the Officers-on-Case recommended for the issuance of Warrant of Seizure and Detention (WSD) for violation of Section 2503 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and for lack of National Food Authority (NFA) Import Permit.

On 24 July 2012, finding existence of probable cause, Carmelita M. Tolosa, OIC, District Collector, Port of Subic, issued a Warrant of Seizure and Detention (WSD) docketed as Seizure Identification No. 2012-001 against the subject shipment for violation of Section 2503 in relation to Sections 2530 and 101 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and NFA rules and regulations;

On even date, in a Memorandum for the District Collector, this Port, Maj. Elpidio Jose R. Manuel, District Commander, ESS, this Port, stated that the WSD was served to the Office of the Senior Deputy Administrator for Administration, SBMA, considering that the address on record by ORIENTAL is Subic Bay Freeport Zone;

Thereafter, the instant case was set for hearing on 9 & 10 August 2012 to give the claimant opportunity to refute the allegations imputed against the subject shipment. However, during the scheduled hearings on the above-captioned case, claimant or any of its duly authorized representatives failed to appear despite notice.

Nonetheless, the Law Division, this Port, scheduled another hearing set on 23 & 24 August 2012. Upon motion of the prosecution, the Hearing Officer ordered the posting of the Notice of Hearing including the WSD in this Port's bulletin boards. This will serve as notice to claimant ORIENTAL or any of its representative in the absence of specific address;

During the scheduled hearing on 23 & 24 August 2012, Atty. Raulito A. Villar, Legal Service, appeared for the government. Despite due notice, herein claimant repeatedly failed to appear.

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SEIZURE IDENTIFICATION NO. 2012-003
(30X20' Container Van)

On 13 June 2012, a shipment of 30x20' container van bearing Nos. APZU3018574/ APZU3062263/ APZU3254517/ APZU3354096/ APZU3372119/ APZU3526512/ APZU3555697/ APZU3573577/ APZU3575230/ APZU3587740/ APZU3625325/ APZU3629697/ APZU3757213/ APZU3805311/ APZU3828894/ APZU387690/ APZU3897576/ APZU3559220/ FCIU2974370/ FCIU3811423/ FCIU3812040/ FCIU3973851/ GLDU2936495/ GLDU3213269/ GLDU5239880/ TCKU1425084/ TCKU1905421/ TCKU2997206/ TCKU3321155/ TRLU3886707, consigned to **ORIENTAL TRADELINK EXPRESS, INC.** ("ORIENTAL", for brevity) STC: 34,110 pcs. Constructional Goods and Supplies Gypsum Boards, arrived at the Port of Subic from Ho Chi Minh, Vietnam, on board the vessel APL Pusan V974, Voyage No. 947W, covered by Bill of Lading No. 074676409;

On 18 June 2012, based on derogatory information, Errol B. Albano, then District Collector, Port of Subic, issued Alert Order No. A/EG/20120618-010 against the 30x20' container vans directing the Examiner and Spotcheckers to conduct an examination of the subject shipment and to submit a report thereon;

Thereafter, the above-described shipment was subjected to examination by Ryan Anthony D. Cruz and Orlando C. Catud, Spotcheckers, Port of Subic, in the presence of Danny Delos Reyes, ESS, representative from the Run After the Smugglers Program, Fidel Dela Cruz, Seaport Division, Subic Bay Metropolitan Authority (SBMA) and Santi Fuentes, Subic Bay International Terminal Corporation (SBITC);


On 19 July 2012, Spotcheck Report was submitted by the above named Officers-On-case, duly noted by COO III Orlando R. Ronquillo, Formal Entry Division (FED), this Port, relative to the conduct of examination conducted which reveals that:

AS MANIFESTED

- STC: 34,110 pcs.
Constructional Goods and
Supplies Gypsum Board

AS FOUND

- Mango Brand Premium White
Rice 50 kgs./bag


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In view of the above findings, the Officers-On-Case recommended for the issuance of Warrant of Seizure and Detention (WSD) for violation of Section 2503 of the Tariff and Customs Code of the Philippines (TCCP), as amended and for lack of National Food Authority (NFA) Import Permit.

On 24 July 2012, finding existence of probable cause, Carmelita M. Talusan, OIC, District Collector, Port of Subic, issued a Warrant of Seizure and Detention (WSD) docketed as Seizure Identification No. 2012-001 against the subject shipment for violation of Section 2503 in relation to Sections 2530 and 101 of the Tariff and Customs Code of the Philippines (TCCP), as amended, and NFA rules and regulations;

On even date, in a Memorandum for the District Collector, this Port, Maj. Elpidio R. Manuel, District Commander, ESS, stated that the WSD was served to the Office of the Senior Deputy Administrator for Administration, SBMA, considering that the address on record by ORIENTAL is Subic Bay Freeport Zone;


Thereafter, the instant case was set for hearing on 9 & 10 August 2012 to give the claimant opportunity to refute the allegations imputed against the subject shipment. However, during the scheduled hearings on the above-captioned case, claimant or any of its duly authorized representatives failed to appear despite notice.

Nonetheless, the Law Division, this Port, scheduled another hearing set on 23 & 24 August 2012. Upon motion of the prosecution, the Hearing Officer ordered the posting of the Notice of Hearing including the WSD in this Port's bulletin board. This will serve as notice to claimant ORIENTAL or of its representative in the absence of its specific address;

During the scheduled hearing on 23 & 24 August 2012, Atty. Raulito A. Villar, Legal Service, appeared for the government. Despite due notice, herein claimant ORIENTAL, AGAIN, failed to appear.

Thereafter both cases, Seizure Identification Nos. 2012-01 & 2012-04 were submitted for resolution.

As earlier stated, the consolidation of this case was made to expedite this decision in fact the Rules of Court explicitly provide as such:


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"Rule 31 of the 1997 Rules of Court:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

It is noteworthy that section 2535 of the TCCP, as amended categorically provides, "that in all seizure proceedings taken for seizure and/or forfeiture of any articles under the provisions of the tariff and customs laws, burden of proof shall lie upon the claimant", which in the instant cases, altogether denies ownership of and any involvement in the importation of the subject shipment. Thus, leaving the same without any claimant to present evidence on its behalf.

In the absence of any evidence to refute the violation charged against the subject shipments, this Office finds the above-captioned articles liable for forfeiture for having been imported in violation of Section 2503 and Section 101 in relation to Section 2530 of the TCCP, as amended.

It bears stressing that the Spotcheck Report dated 19 July 2012 pertaining to the 30x20' and 20x20' container vans, submitted by COO III Orlando R. Ronquillo, Team Leader Spotchecking Unit, Ryan D. Cruz and Orlando C. Catud Spotchecker, this Port, unmistakably shows that the articles contained in the 30x20' and 20x20' container vans were declared in the corresponding Inward Foreign Manifest as Construction Materials Gypsum Board while actual examination reveals that the same contained rice, hence, violative of Section 2530 (f) of the TCCP, as amended.

Be it emphasized that Section 2530 of the TCCP, as amended, explicitly dictates the outright forfeiture of any articles found to be imported contrary to law, to wit:

"Sec. 2530. Property Subject to Forfeiture Under Tariff and Customs Laws. – Any vehicle, vessel or aircraft, cargo article and other objects shall, under the following conditions be subjected to forfeiture:

f. Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation and all other articles which, in the opinion of the collector, have

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been used, are or were entered to be used as instruments in the importation or the exportation of the former;

In the absence of opposition, the Government's claim of unlawful importation will stand uncontested and uncontroverted.

In addition thereto, verification reveals that claimant ORIENTAL have not been awarded nor given rice import allocations by the NFA either through the Private Sector Rice Importation or Minimum Access Volume/Country Specific Quota for the year 2012 as stated in a letter dated 04 September 2012 of Angelito A. Banayo, Administrator, NFA. As a consequence, the subject importations of rice violated the provision of Section 101 (k) of the TCCP, as amended which is quoted hereunder for reference, to wit:

"Section 101. Prohibited Importations.

XXX


XXX

XXX

(k) All other articles and parts thereof, the importation of which is prohibited by law or rules and regulations issued by competent authority."

Although the illegally imported subject rice may not be absolutely prohibited, but only qualifiedly prohibited under above-quoted provision of the law, for it may be imported subject to certain conditions, it is nonetheless prohibited and is contraband, and the legal effects of the importation of the qualifiedly prohibited articles are the same as those of absolutely prohibited articles (*Auyong Hian vs. Court of Tax Appeals, 59 SCRA 110*).

Interestingly, herein claimant's address on record was SBFZ. However, in a letter dated 05 September 2012 of Engr. Marcelino S. Sanqui, OIC for SDA for Administration addressed to the prosecution stated that ORIENTAL was not a registered SBMA locator but a mere port user. Nonetheless, in order to satisfy the constitutional requirements of notice and hearing, this Port caused the posting of the Notice of Hearing and WSD in the bulletin board as certified to by Belinda E. Lim, Chief, Cash Division and Joel Gilbert P. Reyes, Acting Chief, ACDU, this Port. Having been posted for more than fifteen (15) days, claimant or its representative failed to appear.


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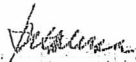
In fact, the act of herein claimant or its failure to file the required entry within the non-extendible period of thirty (30) days may be considered as an implied abandonment of the subject shipment pursuant to Section 1801 of the TCCP, as amended. Thus, ipso facto, becomes the property of the government and may now be disposed of in accordance with customs laws.


WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that the subject shipment of 20x20' container van bearing Nos. APZU325259/ APZU3322632/ APZU3455390/ APZU3490132/ APZU3699478/ APZU3819402/ APZU3917570/ APZU3974712/ APZU3977563/ FCIU3417723/ FCIU4088520/ GLDU3010132/ GLDU5117238/ TCKU3079798/ TCKU3553382/ XU3883865/ TGHU1579743/ TGHU2762975/ TGHU3080028/ TRLU3331680 consigned to **ORIENTAL TRADELINK EXPRESS, INC.** and shipment of 30x20' container van bearing Nos. APZU3018574/ APZU3062263/ APZU3254517/ APZU3354096/ APZU3372119/ APZU3526512/ APZU3555697/ APZU3573577/ APZU3575230/ APZU3587740/ APZU3625325/ APZU3629697/ APZU3757213/ APZU3805311/ APZU3828894/ APZU387690/ APZU3897576/ APZU3559220/ FCIU2071240/ FCIU3811423/ FCIU3812040/ FCIU3973851/ GLDU2936495/ GLDU3551110/ GLDU5239880/ TCKU1425084/ TCKU1995421/ TCKU7997206/ TCKU7997206/ TCKU7997206/ TRLU3886707 covered by Warrants of Seizure and Detention dated 24 July 2012 docketed as Seizure Identification Nos. 2012-002 and 2012-003, respectively, be **FORFEITED** in favor of the government to be disposed of in the manner provided for by law.

Let copies of this Decision be furnished all parties and offices for their information and guidance.

SO ORDERED.

Port of Subic, Philippines, August 14, 2012


CARMELITA M. TALUSAN
OIC, District Collector
Port of Subic


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Copy furnished:

Office of the Commissioner
Resident Auditor, COA
Enforcement Group
TF-REACT
ACDU, Port of Subic
RATS
Seaport Department SBMA
ORIENTAL TRADELINK EXPRESS, INC. SBFZ



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5-5-15
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

OFFICE OF THE COMMISSIONER

2nd Indorsement
22 April 2015

Respectfully returned to the **District Collector, Port of Subic, for appropriate action**, the herein 1st Indorsement dated 17 April from that port, together with the letter from Mr. John Jonie O. Bongon, Acting Chief, Auction and Cargo Disposal Unit (ACDU) with the information on the result of of Laboratory Analysis by the National Food Authority, relative to the forfeited 90x20' containers of Mango Brand Rice (15,360 bags) of imported rice currently stored at No. 1046 Warehouse at the Subic Bay Freeport Zone consigned to **MASAGANA IMPORT EXPORT, INC. (MASAGANA)** and the recommendation and request for approval for the floor price reference of US\$224 per metric ton based on the benchmark price of rice from Vietnam at US\$320 per metric ton with allowance for depreciation and for remilling cost at thirty (30%), to generate a total floor price of Php10,212,800.00 for the 11,520 bags or (75% of 15,360), to which this Office **CONCURS** and interposes **NO OBJECTION** to the recommendation, subject to existing Customs laws, rules and regulations.


JOHN P. SEVILLA
Commissioner



APR 24 2015

Encl.a/s
masaga/04.22.2015

RECEIVED
OFFICE OF THE ASSISTING CHIEF, PORT
OPERATIONS DIVISION
BY: _____
DATE/TIME: JUL 15 2014



Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS
Collection District No. 1
Port of Subic Bay
Olongapo City

*dispute re value
bidding. Call Marcos
please*

RECEIVED
OFFICE OF THE COMMISSIONER
BUREAU OF CUSTOMS
18 JUN 2014
DATE: _____
BY: _____
BUREAU OF CUSTOMS
Office of the Commissioner
Interim Decree No. _____
22-07079

2nd Indorsement
June 15, 2014

*law allowed negotiated
sale but I prefer we
go through another
bidding*

Respectfully forwarded to the Hon. John Philip R. Sevilla, Commissioner, Bureau of Customs, the herein folder with attachments relative to the 90 x 20 containers forfeited Mango Brand Premium white rice, with the recommendation of immediate disposition through negotiated sale in accordance with DMC-10-2007.

[Signature]
ARNILDO J. MARCOS
District Collector

RECEIVED
OFFICE OF THE ASSISTING CHIEF, PORT
OPERATIONS DIVISION
BY: _____
DATE/TIME: JUL 25 2014

*despite the fact
bidding. please have
the value re-appraised
& conduct a new public
bidding. I know the
law allows negotiated
sale but I prefer we
go through another
bidding.*



Republic of the Philippines
 Department of Finance
BUREAU OF CUSTOMS
 Customs District XIII
 Port of Subic
 Olongapo City

NOTICE OF SALE

Pursuant to the provision for Section 2601 of the Tariff and Customs Code of the Philippines, as amended, and CAO 10-2007 dated 17 March 2003, there will be a PUBLIC AUCTION (sealed bidding) on July 1, 2015 from 9:00 A.M. until terminated at the Customs Conference Room, Bldg. 307, Canal Road, SBFZ, of the hereunder listed lots. Said items/goods shall be available for public viewing on June 29 & 30, 2015

In the event of failed bidding, the same shall be offered in a second auction to be held on the third business day following the first failed bidding at the same time and place with no reduction of the floor price and without need for further advertisement, except as to perishable items which may be auctioned again on the following business day.

The winning bidder shall be required to pay 50% of the bid price either in cash and/or manager's check at the end of the auction. For meritorious reasons, said bidders may be allowed to make such payment not later than two (2) hours from the awarding of the winning bid. The remaining balance of 50% of the price shall be paid on the next business day.

IMPORTANT:

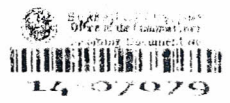
Only registered bidders who have paid the Registration Fee of Two Thousand (Php2,000.00) Pesos and Cash Bond (refundable) of Twenty Thousand Pesos (Php. 20,000.00) are eligible to participate in the auction sale. All participants whether natural or juridical persons, must submit the latest Income and Business Tax duly stamped and received by the Bureau of Internal Revenue (BIR) and validate with tax payment made thereon as a pre-condition for registration of bidders in auction sales.

Interested bidders must submit to this Office their License to Operate, DTI registration certificate and Income Tax Return duly stamped by BIR (2014).

Registration starts at 9:00 A.M. and will close at 9:30 A.M. For further inquiry, please call the office of the District Collector at Tel. no. 047-252-3435.

<p>Sale Lot No. 01-15 Forfeited: September 14, 2012 Consignee: Masagana Import Export Inc. And Oriental Tradelink Express. Php. 10, 212, 800.00</p>	<p>Approximately 11, 520 bags of rice "AS IS WHERE IS" Location: Bldg 1432, Warehouse at Boton Highway Subic/Bay Freeport Zone</p>
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2nd Indorsement
 June 16, 2014



Respectfully forwarded to the Hon. John Philip P. Sevilla, Commissioner, Bureau of Customs, the herein folder with attachments relative to the 90 x 20 containers forfeited Mango Brand Premium white rice, with the recommendation of immediate disposition through negotiated sale in accordance with CMO-10-2007.