



# BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



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PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines,

Seizure Identification  
No. CFZ **024-2021**

-versus-

Five (5) pieces Rolex Wrist Watches found inside the luggage of a passenger from Israel which arrived via Qatar Airways Flight No. QR930

Passenger:

**CHRISTINE SION VERCELES**

Passport No. P1528578A

200 Binday, San Fabian, Pangasinan

Claimant.

X-----X

## DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for possible violation of Sections 1404 (Failure to Declare Baggage), 1113 par. l and 118 par. f of R.A. No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to R.A. No. 8293 otherwise known as the Intellectual Property Code of the Philippines.

As culled from the records, the material facts of the instant case are as follows:

On 10 May 2021, at around 4:40 PM, while the Acting Customs Examiner Marife Foloso was on duty for Qatar Airways Flight No. QR930, a passenger, Ms. CHRISTINE SION VERCELES with Passport No. P1528578A, approached the Examination Area along with her luggage marked "x" by the X-ray Inspection Project.

To verify the content of the luggage marked with "x", the Acting Examiner conducted examination of the same and found the following items:

| ROLEX WRIST WATCHES                     |              |
|---|--------------|
| MODEL                                   | QTY (pc)     |
| Rolex Oyster Perpetual Datejust (Blue)  | 1 pc.        |
| Rolex Oyster Perpetual Datejust (Green) | 1 pc.        |
| Rolex Oyster Perpetual Datejust (Red)   | 1 pc.        |
| Rolex Automatic (Gold)                  | 1 pc.        |
| Rolex Automatic (Blue)                  | 1 pc.        |
| <b>Total:</b>                           | <b>5 pcs</b> |

Thereafter, Ms. Verceles was asked by the Acting Examiner if the subject items are authentic on which the former replied that the same are "Class A". Relative thereto, Ms. Verceles was informed that said items are subject for confiscation for possible violation of the Intellectual Property Code of the Philippines if proven to be counterfeited. Afterwards, Held Baggage Receipt (HBR) with No. 00374875 was prepared by the Acting Examiner for the subject items.

On 11 May 2021, the Office of the Officer-in-Charge, Port of Clark received a Memorandum dated 10 May 2021 from Ms. Foloso and Mr. Patrick Santos, Acting Customs Examiner and Passenger Service Officer-in-Charge, respectively thru Lilibeth Mangsal, Deputy Collector for Passenger Service, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject wrist watches for possible violation of Section 118 (f) of R.A. No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to R.A. No. 8293 otherwise known as the Intellectual Property Code of the Philippines.

On 24 May 2021, a Warrant of Seizure and Detention (WSD) docketed as S.I No. CFZ 024-2021 was issued by the Officer-in-Charge, this Port, against the subject shipment for possible violation of Sections 1404 (Failure to Declare Baggage), 1113 par. l and 118 par. f of R.A. No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to R.A. No. 8293 otherwise known as the Intellectual Property Code of the Philippines.

On the scheduled hearing dated 03 and 04 June 2021, claimant failed to appear despite due notice.

Thus, we resolve.

#### ISSUE:

Whether or not the subject shipment may be forfeited in favor of the government.

#### DISCUSSION:

The failure of the claimant to register her claims in this proceeding and eventually submit documentary and/or testimonial evidence to support such claim is equivalent to a waiver of right. Such waiver will not offend the time-honored principle and constitutionally guaranteed "due process principle" since the claimant was given ample time to present her case.

In the case of **Ledesma vs. Court of Appeals (G.R. No. 166780, December 27, 2007, 541 SCRA357)**, the Supreme Court had the occasion to rule that:

The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of xxx

In the present case at hand, the claimant was undeniably given a day and the opportunity to elaborate her claim, discuss, and present supporting evidence to prove the same. Records show that the Warrant of Seizure and Detention and Notice of Hearing were duly served and received as stated in the Memorandum dated 26 May 2021 from SA I Fitzgerald T. Borja thru SP/Capt. Arnel A. Baylosis, to wit:

*"2. At around 04:00PM on May 25, 2021, the above-signed, located Christine Sion Verceles at #200 Bindow, San Fabian, Pangasinan. Hence, the said Notice of hearing and WSD was received by Ms. Christine Verceles, the consignee.*

**3. Respectfully returning the copy of *SERVED Notice of Hearing and Warrant of Seizure and Detention (WSD) SI No. CFZ 024-2021.***

Thus, this Office consider her non-appearance a waiver of right to present her case.

Anent the issue on the forfeiture of goods, Sections 1404 (Failure to Declare Baggage), 1113 par. l and 118 par. f of the CMTA, are explicit:

**Section 1404. Failure to Declare Baggage.** — Whenever dutiable goods are not declared by any person arriving within the Philippines, such goods shall be seized and the person may obtain release of such goods, if not imported contrary to law, upon payment of a surcharge equivalent to thirty percent (30%) of the landed cost of such goods, in addition to all duties, taxes and other charges due. Nothing in this section shall preclude the filing of criminal action against the offender.

xxx

**Section 1113. Property Subject to Seizure and Forfeiture.** — Property that shall be subject to seizure and forfeiture include:

- (l) Goods sought to be imported or exported:
  - (2) Found in the baggage of a person arriving from abroad and undeclared by such person;

**Section 118. Prohibited Importation and Exportation.** — The importation and exportation of the following goods are prohibited:

- (f) Infringing goods as defined under the Intellectual Property Code and related laws; and

xxx

Clearly, the abovementioned provisions of law were violated when the subject goods were not declared in the Customs Baggage Declaration Form contrary to the findings of the Acting Examiner that such luggage contained five (5) Rolex wrist watches. Moreover, no other than the passenger communicated that subject shipment are "Class A" as stated in paragraph 3 of the Memorandum dated May 10, 2021 of the Acting Examiner.

Be it emphasized that in seizure and forfeiture proceedings the burden of proof shall be borne by the claimant. Section 1123 of the CMTA is unequivocal and we quote:

"In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden of proof shall be borne by the claimant."

All told, subject shipment is liable for forfeiture for having been imported in violation of Sections 1404 (Failure to Declare Baggage), 1113 par. l and 118 par. f of the CMTA.

**WHEREFORE**, by virtue of the authority vested in me by law, it is hereby ordered and decreed that the **five (5) Rolex wrist watches found inside the luggage of passenger CHRISTINE SION VERCELES from Israel which arrived via Qatar Airways Flight No. QR930**, subject of this seizure and forfeiture proceeding, be **FORFEITED** in favor of the Government to be disposed of in the manner provided for by law.

Let copies of the Order be furnished all parties and offices for their information.

**SO ORDERED.**

Port of Clark International Airport, Clark Freeport Zone, Pampanga, 09 June 2021.

  
**ALEXANDRA Y. LUMONTAD**  
District Collector



BOC-22-00772

*Copy furnish:*

*Christine Sion Verceles  
Passport No. P1528578A  
200 Binday, San Fabian, Pangasinan*

*Patrick M. Santos  
Officer-in-Charge, Passenger Service*

*Marife V. Folloso  
Acting Customs Examiner, Passenger Service*