



Republic of the Philippines,

Seizure Identification
No. CFZ **087-2022**

-versus-

Shipment said to contain **“Ten (10) set of white socks, Twelve (12) name tag pins, eight (8) knitted scarf, six (6) hairnet, nine (9) pair of nursing white coat, three (3) winter jacket, eight (8) nursing books and ten (10) pcs. knitted gloves”** destined to Holland, the Netherlands which will be shipped thru Federal Express (FedEx) Clark on 02 November 2022 under House Airway Bill No. 770375065867 but found to contain **two (2) bag/pouch (Hermes), two (2) wallet (Louis Vuitton), four (4) scarf (Louis Vuitton, Hermes and Dior), one (1) bag (Coach), two (2) bags (Louis Vuitton), four (4) pouch (Mark Jacobs), one (1) bag (Michael Kors), one (1) bag (Chanel), one (1) pack dried fish (tuyo), one (1) pack dried stems, five (5) empty small green boxes, five (5) pcs. Fast White lotion, five (5) pcs. Gayagayaku soap, Glass Skin facial beauty set and five (5) pcs. Collagen firming sleeping essence**

Exporter/Shipper:

RUTH

Dasmarinas, Cavite 4114

Claimant.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Section 1113 paragraphs (f) and (l) (3) and (4) of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

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

On 02 November 2022, an export shipment destined to Holland, the Netherlands said to contain **“Ten (10) set of white socks, Twelve (12) name tag pins, eight (8) knitted scarf, six (6) hairnet, nine (9) pair of nursing white coat, three (3) winter jacket, eight (8) nursing books and ten (10) pcs. knitted gloves”** exported by a certain RUTH consigned to Cristine Mansour arrived at the Federal Express (FedEx) gateway facility under House Airway Bill No. 770375065867. The same was marked for verification/physical examination by the X-ray Inspector on duty.

On even date, Trade Control Examiner Marife Foloso conducted physical examination on the subject shipment in the presence of representative from FedEx which led to the following findings:

AS DECLARED IN THE INVOICE	AS FOUND
<p>Ten (10) set of white socks Twelve (12) name tag pins Eight (8) knitted scarf Six (6) hairnet Nine (9) pair of nursing white coat Three (3) winter jacket Eight (8) nursing books Ten (10) pcs. knitted gloves</p>	<ul style="list-style-type: none"> • Two (2) bag/pouch bearing the brand Hermes • Two (2) wallet bearing the brand Louis Vuitton • Four (4) scarf bearing the brand Louis Vuitton, Hermes and Dior • One (1) bag bearing the brand Coach • Two (2) bags bearing the brand Louis Vuitton • Four (4) pouch bearing the brand Mark Jacobs • One (1) bag bearing the brand Michael Kors • One (1) bag bearing the brand Chanel • One (1) pack of dried fish (Tuyo) • One (1) pack of dried stems • Five (5) empty small green boxes • Five (5) pcs. Fast White lotion • Five (5) pcs. Gayagayaku soap • Glass Skin facial beauty set • Five (5) pcs. Collagen firming sleeping essence
<p>Value: USD 130.00 Weight: 19.75 kgs.</p>	<p>Gross Weight: 20 kgs.</p>

On 08 November 2022, the Office of the District Collector received a Memorandum dated 07 November 2022 from Ms. Maricar N. Go and Ms. Foloso, Officer-In-Charge Export Unit and Acting Trade Control Examiner FedEx, respectively, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject export shipment for violation of Section 1113 paragraphs (i) and (l) (3) and (4) of R.A.) No. 10863 otherwise known as the CMTA.

On 08 November 2022, a WSD docketed as S.I No. CFZ 087-2022 was issued by the Officer-In-Charge, this Port, against the subject shipment for violation of Section 1113 paragraphs (f) and (l) (3) and (4) of R.A. No. 10863 otherwise known as the CMTA.

Thereafter, hearings were scheduled on 17 and 18 November 2022, however, on 27 December 2022, the Office of the District Collector, this Port, received a Memorandum of even date from SP/Capt. Arnel A. Baylisis, returning the unserved Notice of Hearing and WSD because of unknown address of the exporter/shipper.

Thus, we resolve.

ISSUE:

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

DISCUSSION:

In quasi-judicial proceedings, procedural rules governing service of notices/summons are not strictly construed. Substantial compliance thereof is sufficient. The constitutional requirement of due process with respect to service of summons only exacts that the service of summons be such as may reasonably be expected to give the notice desired.

In the case of **Scenarios, Inc. and/or Rhotziv Bago V. Jelly Vinluan (2008)**, the court considered as substantial compliance the service of summons by registered mail at respondent's place of business explaining therein that technical rules of procedure are not strictly applied in quasi-judicial proceedings; only substantial compliance is required.

Similarly, in the present case at hand, records show that Enforcement and Security and Service (ESS), this Bureau, served the Notice of Hearing and WSD thru mail via JRS Express, however, the same was unsuccessful because of unknown address of the exporter/shipper. Be it noted that said address of the consignee was taken from the exportation documents as submitted. Subsequently, the same were posted at the BOC Official Website and Bulletin Board.

Thus, this Office opines that the above-mentioned attempt to deliver the Notice of Hearing and WSD and posting the same at the BOC Official Website and Bulletin Board are sufficient enough to comply with the procedural due process as required by law.

Anent the issue on the forfeiture of goods, Section 1113 paragraphs f and l (3) and (4) of the CMTA is explicit:

SEC. 1113. Property Subject to Seizure and Forfeiture. –
Property that shall be subject to seizure and forfeiture include:

(f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former.

(l) Goods sought to be imported or exported:

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such goods;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or

xxx

Applying the abovementioned provisions of law in the case at hand, this office ruled that exportation of subject shipment is contrary to law. Be it noted that subject shipment was declared in the airway bill and commercial invoice as *“Ten (10) set of white socks, Twelve (12) name tag pins, eight (8) knitted scarf, six (6) hairnet, nine (9) pair of nursing white coat, three (3) winter jacket, eight (8) nursing books and ten (10) pcs. knitted gloves”* contrary to the findings of the Trade Control Examiner that the same contained two (2) bag/pouch (Hermes), two (2) wallet (Louis Vuitton), four (4) scarf (Louis Vuitton, Hermes and Dior), one (1) bag (Coach), two (2) bags (Louis Vuitton), four (4) pouch (Mark Jacobs), one (1) bag (Michael Kors), one (1) bag (Chanel), one (1) pack dried fish (tuyo), one (1) pack dried stems, five (5) empty small green boxes, five (5) pcs. Fast White lotion, five (5) pcs. Gayagayaku soap, Glass Skin facial beauty set and five (5) pcs. Collagen firming sleeping essence.

Moreover, it is worthy to note that 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 exported in violation of Section 1113 paragraphs (f) and (l) (3) and (4) of R.A. No. 10863 otherwise known as the CMTA.

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that **shipment said to contain “Ten (10) set of white socks, Twelve (12) name tag pins, eight (8) knitted scarf, six (6) hairnet, nine (9) pair of nursing white coat, three (3) winter jacket, eight (8) nursing books and ten (10) pcs. knitted gloves”** destined to Holland, the Netherlands which will be shipped thru Federal Express (FedEx) Clark on 02 November 2022 under House Airway Bill No. 770375065867 but found to contain **two (2) bag/pouch (Hermes), two (2) wallet (Louis Vuitton), four (4) scarf (Louis Vuitton, Hermes and Dior), one (1) bag (Coach), two (2) bags (Louis Vuitton), four (4) pouch (Mark Jacobs), one (1) bag (Michael Kors), one (1) bag (Chanel), one (1) pack dried fish (tuyo), one (1) pack dried stems, five (5) empty small green boxes, five (5) pcs. Fast White lotion, five (5) pcs. Gayagayaku soap, Glass Skin facial beauty set and five (5) pcs. Collagen firming sleeping essence**, 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, 27 December 2022.

Copy furnish:

Ruth
Dasmariñas, Cavite 4114

Maricar N. Go
Officer-In-Charge, Export Unit

Marife V. Foloso
Trade Control Examiner, FedEx

ESS-Port of Clark

C/IS-Port of Clark


JOHN M. SIMON

Officer-In-Charge, Port of Clark