



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines,

Seizure Identification
No. CFZ **095-2022**

-versus-

Shipment said to contain “**NWORLD FACIAL CLEANSER, NWORLD FACE CREAM, NWORLD O2BUBBLE CLEANSER**” destined to Houston, Texas, USA which will be shipped thru Federal Express (FedEx) Clark on 05 November 2022 under House Airway Bill No. 770411209246 but found to contain **three (3) pcs. Eden Cheese, Knorr Cream of Mushroom, twelve (12) cans Delimondo Corned Beef and meatballs and hams inside a styrofoam box**

Exporter/Shipper:
RANDOLPH LLOBRERA
Calocan City 1402

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 05 November 2022, an export shipment destined to Houston, Texas, USA said to contain “**NWORLD FACIAL CLEANSER, NWORLD FACE CREAM, NWORLD O2BUBBLE CLEANSER**” exported by RANDOLPH LLOBRERA consigned to Enrich Louise arrived at the Federal Express (FedEx) gateway facility under House Airway Bill No. 770411209246. 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
Ten (10) pcs. Nworld Facial Cleanser Ten (10) pcs. Nworld Face Cream Ten (10) pcs. Nworld O2Bubble Cleanser	<ul style="list-style-type: none"> • Three (3) pcs. Eden Cheese • Knorr Cream of Mushroom • Twelve (12) cans Delimondo Corned Beef • Meatballs and hams contained in styrofoam box
Value: USD 101.00 Weight: 11.5 kgs.	Gross Weight: 11 kgs.

On 11 November 2022, the Office of the District Collector received a Memorandum dated 10 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 14 November 2022, a WSD docketed as Seizure Identification (S.I.) No. CFZ 095-2022 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 24 and 25 November 2022, however on 20 January 2023, the Office of the District Collector, this Port, received a Memorandum of even date from SP/Capt. Arnel A. Baylous returning the unserved Notice of Hearing and WSD because of incomplete 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 incomplete address of the exporter/shipper. Be it noted that said address of the latter was taken from the exportation documents as submitted. Subsequently, Notice of Hearing and WSD 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 *"NWORLD FACIAL CLEANSER, NWORLD FACE CREAM, NWORLD O2BUBBLE CLEANSER"* contrary to the findings of the Trade Control Examiner that the same contained **three (3) pcs. Eden Cheese, Knorr Cream of Mushroom, twelve (12) cans Delimondo Corned Beef and meatballs and hams inside a styrofoam box.**

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."

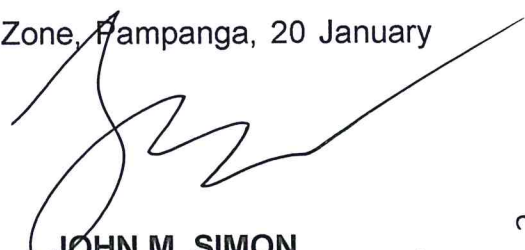
All told, subject shipment is liable for forfeiture for having been exported in violation of Section 1113 paragraphs (f) and (l) (3) and (4) of R.A. No. 10863 otherwise known as the CMTA.

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that **shipment said to contain "NWORLD FACIAL CLEANSER, NWORLD FACE CREAM, NWORLD O2BUBBLE CLEANSER" destined to Houston, Texas, USA which will be shipped thru Federal Express (FedEx) Clark on 05 November 2022 under House Airway Bill No. 770411209246 but found to contain three (3) pcs. Eden Cheese, Knorr Cream of Mushroom, twelve (12) cans Delimondo Corned Beef and meatballs and hams inside a styrofoam box**, 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, 20 January 2023.


JOHN M. SIMON
Officer-In-Charge, Port of Clark

Copy furnish:

*Randolph Llobrera
Caloocan City 1402*

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

*Marife V. Follosa
Trade Control Examiner, FedEx*

ESS-Port of Clark

CIIS-Port of Clark