



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines,

Seizure Identification
No. CFZ 041-2022

-versus-

Shipment of “NRP DISPLAY UNIT” which arrived at Federal Express (FedEx) Clark Hub on 05 April 2022 under House Airway Bill No. 776415637398 from Maryland, USA

Consignee:

MSGT PACHECO

MACS ATC COMPANY KILO

Subic Bay International Airport, Argonaut Hwy, Bldg. 8015, RM 162, Subic Bay Freeport, 2222

Claimant.

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DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Sections 1113 par. f and l (3 & 4) and 1400 of 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 April 2022, a shipment from Maryland, USA said to contain “NRP DISPLAY UNIT” under House Airway Bill No. 776415637398 consigned to a certain MSGT PACHECO (MACS ATC COMPANY KILO) with address at Subic Bay International Airport, Argonaut Hwy, Bldg. 8015, RM 162, Subic Bay Freeport, 2222 arrived at the Federal Express (FedEx) Clark Hub and requested to file under informal entry goods declaration with a declared value of USD 2,400.00.

On 11 April 2022, Customs Examiner Michael John Ramos conducted physical examination on the subject shipment which noted the following discrepancies pertaining to the value and quantity of the said shipment:

AS DECLARED	AS FOUND
Item: NRP DISPLAY UNIT	Item: NRP DISPLAY UNIT
Quantity: Three (3) pieces	Quantity: Three (3) pieces
Total Value: USD 2,400.00	Total Value: USD 25,266.00 <i>(based on a document found during physical examination)</i>
Tariff Heading: 8528.72.99 – 10%	Tariff Heading: 8528.72.99 – 10%

COMPUTATION OF ESTIMATED DUTIES, TAXES, AND OTHER PAYABLES			
	AS DECLARED	AS FOUND	DIFFERENCE (97%)
Customs Duty	PHP 13,958.00	PHP 136,088.38	PHP 122,130.38
VAT	PHP 19,124.36	PHP 180,600.38	PHP 161,476.02
500% Surcharge	-	PHP 1,583,443.80	PHP 1,583,443.80
Total	PHP 33,082.36	PHP 1,900,132.56	PHP 1,701,638.40

Upon evaluation of the submitted importation documents with declared value of USD 2,400.00 and the requisition and invoice/shipping document with a total value of USD 25,266.00 found during physical examination of the said shipment, more than 30% discrepancy in duties and taxes found which constitute a prima facie evidence of fraud;

On 20 June 2022, the Office of the District Collector received a Memorandum dated 06 June 2022 from Mr. Ramos, Customs Examiner, thru Atty. Danilo Ballena Jr., Mr. Karl Cortes, and Mr. Jason Paul Pagala, Deputy Collector for Assessment, FedEx Special Duty Collector, and Customs Appraiser, respectively, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject shipment for violation of Section 1113 par. I (3, 4, & 5) of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in connection to Section 1400 "Misdeclaration, Misclassification, and Undervaluation in Goods Declaration" without prejudice to the application of fines or penalties provided under Section 1401 of the same act.

On even date, a Warrant of Seizure and Detention (WSD) docketed as S.I No. CFZ 041-2022 was issued by the District Collector, this Port, against the subject shipment for possible violation of Sections 1113 par. f and I (3 & 4) and 1400 of R.A. No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

Thereafter, hearings were scheduled on 27 and 28 June 2022. On 18 July 2022, the Office of the District Collector, this Port, received a Memorandum of even date from SP/Capt. Arnel A. Baylosis, returning the copy of unserved Notice of Hearing and WSD for the subject shipment because of fictitious name and address of the consignee. Subsequently, the same were posted at the BOC Official Website.

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 the Enforcement and Security Service (ESS), this Bureau, tried to serve the Notice of Hearing and WSD thru mail via JRS Express with Reference No. 016900-3842 however, the same was not delivered because of fictitious name and address of the consignee. Be it noted that said address of the consignee was taken from the importation documents as submitted. Subsequently, Notice of Hearing and WSD were posted at the BOC Official Website.

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

Anent the issue on the forfeiture of goods, Sections 1113 par. f and l (3 & 4) and 1400 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

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Sec. 1400. Misdeclaration, Misclassification, Undervaluation in Goods Declaration. - Misdeclaration as to quantity, quality, description, weight, or measurement of the goods, or misclassification through insufficient or wrong description of the goods or used of wrong tariff heading resulting in a discrepancy in duty and tax to be paid between what is legally determined upon assessment and what is declared, shall be subject to a surcharge and equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%), or when the declared tariff heading is rejected in a formal customs dispute settlement process involving difficult or highly technical question of tariff classification, or when the tariff classification declaration relied on an official government ruling.

There is undervaluation when: (a) the declared value fails to disclose in full the price actually paid or payable or any dutiable adjustment to the price actually paid or payable; or (b) when an incorrect valuation method is used or the valuation rules are not properly observed, resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value. When the undervaluation is

established without the need to go through the formal dispute settlement process provided for in this Act, a surcharge shall be imposed equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty is less than ten percent (10%); or the declared value is rejected as a result of an official ruling or decision under the customs dispute settlement process involving difficult or highly technical question relating to the application of customs valuation rules.

A discrepancy in duty and tax to be paid between what is legally determined and what is declared amounting to more than thirty percent (30%) shall constitute a prima facie evidence of fraud.

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duty and tax due and that the goods shall be subject to seizure regardless of the amount of the discrepancy without prejudice to the application of fines or penalties provided under Section 1401 of this Act against the importer and other person or persons who willfully participated in the fraudulent act.

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In the case at hand, subject shipment was declared in the commercial invoice as "NRP DISPLAY UNIT" with a declared value of USD 2,400.00 contrary to the requisition and invoice/shipping document with a total value of USD 25,266.00 found during physical examination. The same was assessed to be undervalued by the Customs Examiner and Appraiser wherein the estimated discrepancy in duties and taxes to be paid exceeded 30%. Thus, the absence of any evidence or proof to controvert the findings of the Customs Examiner and Appraiser warrants the forfeiture of the subject shipment.

All told, this Office finds it proper to forfeit the subject shipment.

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that **shipment of "NRP DISPLAY UNIT" which arrived at Federal Express (FedEx) Clark Hub on 05 April 2022 under House Airway Bill No. 776415637398 from Maryland, USA**, 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, 22 July 2022.


ALEXANDRA Y. LUMONTAD
District Collector



Copy furnish:

*MSGT PACHECO
MACS ATC COMPANY KILO
Subic Bay International Airport, Argonaut Hwy,
Bldg. 8015, RM 162, Subic Bay Freeport, 2222*

*Karl S. Cortes
Special Duty Collector, FedEx*

*Japhet G. Mercado
Warehouseman, FedEx*

ESS-Port of Clark

CIIS-Port of Clark