



Republic of the Philippines,

Seizure Identification
No. CFZ **038-2022**

-versus-

Shipment said to contain “1 **CELLULAR PHONES – CELLULAR PHONES**” which arrived at Federal Express (FedEx) Clark Hub on 08 April 2022 under House Airway Bill No. 271634884670 covered by Entry No. I-26904 from Maud, Oklahoma, USA but found to contain **one (1) piece Used Ipad, twenty-six (26) Used Cellphones (various iPhone units), two (2) pieces Used Cellphone Charger, and one (1) piece Used Jam Speaker**

Consignee:

ANELYN SAMPIANO

Pamana Habitat Village, Tangub, Bacolod City, Negros Occidental, 6100

Claimant.

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DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Sections 117, 1113 par. f, i, and I (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 08 April 2022, a shipment from Maud, Oklahoma, USA said to contain “1 **CELLULAR PHONES – CELLULAR PHONES**” consigned to **ANELYN SAMPIANO** under House Airway Bill No. 271634884670 arrived at the Federal Express (FedEx) Clark Hub and an Entry Declaration with No. I-26904 was filed for clearance processing. The same was subjected for 100% physical examination.

On 09 April 2022, Acting Customs Examiner Jendee Gusto conducted physical examination on the subject shipment with the supervision of Acting Customs Appraiser John Paul Dungca and in the presence of representatives from FedEx and AAI which led to the following findings:

AS DECLARED IN THE ENTRY DECLARATION	AS FOUND
1 CELLULAR PHONES – CELLULAR PHONES	<ul style="list-style-type: none"> • One (1) piece Used Ipad • Twenty-six (26) Used Cellphone (various iPhone units) • Two (2) pieces Used Cellphone Charger • One (1) piece Used Jam Speaker
Value: 800.00 USD Gross Weight: 5.46 KGS	

On 20 April 2022, proof of payment was submitted by the consignee. On the next day, the latter was required to submit National Telecommunications Commission (NTC) release clearance for the subject shipment.

On 22 April 2022, the adjusted value amounting to USD 1,200.00 has been accepted by the consignee.

On 23 April 2022, consignee submitted a letter of explanation informing that the said items are for repair.

On 01 June 2022, the Office of the District Collector received a Memorandum dated 01 June 2022 from Mr. Dungca and Ms. Gusto, Acting Customs Appraiser and Acting Customs Examiner, respectively, thru Atty. Danilo G. Ballena Jr. and Karl S. Cortes, Deputy Collector for Assessment and FedEx Special Duty Collector, respectively, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject shipment for violation of Sections 117, 1113 (l), and 1400 of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

On even date, a Warrant of Seizure and Detention (WSD) docketed as S.I No. CFZ 038-2022 was issued by the District Collector, this Port, against the subject shipment for possible violation of Sections 117, 1113 par. f, i, and l (3 & 4), and 1400 of R.A. No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

Thereafter, hearings were scheduled on 09 and 10 June 2022. On 21 June 2022, the Office of the District Collector, this Port, received a Memorandum of even date from SP/Capt. Arnel A. Baylosis, returning the 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 locate and serve the Notice of Hearing and WSD thru mail via JRS Express with Track Shipment No. 016461 however, the same was not delivered because of fictitious name and address of the consignee. Be it noted that said consignee's information were taken from the importation documents as submitted. Subsequently, the same were posted at the BOC official website.

Thus, this office opines that the above-mentioned attempt to deliver the WSD and Notice of Hearing and posting 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 117, 1113 f, i, and l (3 & 4) and 1400 of the CMTA is explicit:

Section 117. Regulated Importation and Exportation.

Goods which are subject to regulation shall be imported or exported only after securing the necessary goods declaration or export declaration, clearance, licenses, and any other requirements, prior to importation or exportation.

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Section 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.

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package shall be liable to seizure and forfeiture.

(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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Section 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. x x x

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Applying the abovementioned provisions of law in the case at hand, this office ruled that importation of subject shipment is contrary to law. Be it noted that subject shipment was declared in the airway bill, commercial invoice, and Entry No. I-26904 as “1 CELLULAR PHONES – CELLULAR PHONES” contrary to the findings of the Acting Customs Examiner that the same contained **one (1) piece Used Ipad, twenty-six (26) Used Cellphones (various iPhone units), two (2) pieces Used Cellphone Charger, and one (1) piece Used Jam Speaker** which requires release clearance from the NTC. Unfortunately, claimant failed to secure the same for the importation of the said shipment. Thus, violating the abovementioned provision of the laws.

All told, subject shipment is liable for forfeiture for having been imported in violation of Sections 117, 1113 par. f, i, and l (3 & 4) and 1400 of the CMTA.

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that shipment said to contain “1 CELLULAR PHONES – CELLULAR PHONES” which arrived at Federal Express (FedEx) Clark Hub on 08 April 2022 under House Airway Bill No. 271634884670 covered by Entry No. I-26904 from Maud, Oklahoma, USA but found to contain one (1) piece Used Ipad, twenty-six (26) Used Cellphones (various iPhone units), two (2) pieces Used Cellphone Charger, and one (1) piece Used Jam Speaker, 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, 29 June 2022.


ALEXANDRA Y. LUMONTAD
District Collector



Copy furnish:

Anelyn Sampiano
Pamana Habitat Village, Tangub, Bacolod City,
Negros Occidental, 6100

Karl S. Cortes
Special Duty Collector, FedEx

Japhet G. Mercado
Warehouseman, FedEx

ESS-Port of Clark

CIIS-Port of Clark