



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

In the matter of abandonment proceeding instituted against the shipment of 1x40' container bearing No. YMLU8858730 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on September 22, 2019 under Bill of Lading No. W192271657;

Abandonment Proceeding
No. 2020-040

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. YMLU8906947 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on October 12, 2019 under Bill of Lading No. W192270903;

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. TEMU8753731 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on November 02, 2019 under Bill of Lading No. W192272792;

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. TCNU3056776 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on December 11, 2019 under Bill of Lading No. W192273551,

WILLXPRESS INC.,
Consignee,

VARIOUS CLAIMANTS (see attached list),
Ultimate consignee/claimants.

X-----X

NOTICE OF ORDER

To: **THE FOLLOWING CONSIGNEES**

CONTAINER NO. TEMU8753731		
Consignee	Invoice No.	No. of Boxes
Marina F. Haskett	25626	
Wennie Milagros U. Pacate	25719	1
Caridad C. Mata	25717	3
Ryan Concepcion	25921	
Ernesto C. Sigamay	25952	
Judy Calajate	25466	1
Elena R. Moreno	22574	2

CONTAINER NO. TCNU3056776		
Consignee	Invoice No.	No. of Boxes
Art Renato Belandres	18456	1
Katrina Soriano Abuan	25628	2
Herminigilda Garbo	23102	4
Adoracion Llanes	22041	2
Corazon Nidua	24318	1
Joie Ferrer	22044	2 ½
Emiliano Gutierrez	22046	1
Alexander Tinga	26252	

A Modernized and Credible Customs Administration That is Among the World's Best

South Harbor, Gate 3, Port Area, Manila 1099
8527-4537, 8527-1935 | www.customs.gov.ph | boc.cares@customs.gov.ph

Irene De Leon	25976	1
Caridad C. Mata	25491	1
Annaliza Gudasen	25417	1
Ernesto G. Sigamay	25625	1
Lucia T. Soriano	25766	3
Judy Calajate	25489	1
Roldante S. Espereno	22047	1
Consuelo Del Rosario	21825	1
Napoleon Lamayo	25977	2
Rosario Tan	25773	2
Bernadette M. Languardia	25771	2
Merely Sabian	25619	4
Roel R. Bongapat	26268	5
Cristy C. Magote	23757	
Hector N. Pangan	2501	

CONTAINER NOS. YMLU8858730 / YMLU8906947		
Consignee	Invoice No.	No. of Boxes
Leonila Igarate	25441	2
Beverly Ricaforte	24624	1
Mark Albert Soriano	23566	1
Katrina Soriano Abuan	23567	1
Herminigilda Garbo	23101	3
Julius H. Bastian	18449	2
Ariel Cortezano	25447	1
Abelardo Germono Jr. (deceased) represented by Teresita Germono	1006	1
Erlinda Ruzol	25449	2
Juvy Chua	11432	1
Jose Alcantara	11431	1
Maria Luisa Germono Bautista	25450	1
Anastacia F. Ventura	25440	1
Milagros Dait	25460	1
Victoria N. Fulache	25361	6
Milde Almabis	25477	2
Ricky Espana	25002	1
Edwin Castillo Magpantay	25435	1
Jaime M. Montilla	25174	1
Laarne T. Ramos	25001	2
Teresita M. Burdeos	25175	11
Edgardo Antonio Baroso	26256	4
Ponciano T. Salvatierra	25396	1
Agustin Galvez	24366	1
Anjoleene Nucum	25538	1

You are hereby notified by these presents that the Commissioner of Customs rendered an ORDER on April 05, 2021, in the above-entitled case, copy of which is hereto attached.

Port of Manila, April 06, 2021.

FOR THE DISTRICT COLLECTOR:


ATTY. EDGARDO T. PADRE, JR.
 Chief, Law Division

A Modernized and Credible Customs Administration That is Among the World's Best

South Harbor, Gate 3, Port Area, Manila 1099
 8527-4537, 8527-1935 | www.customs.gov.ph | boc.cares@customs.gov.ph



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. YMLU8858730 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on September 22, 2019 under Bill of Lading No. W192271657

Abandonment Proceeding No. 2020-040

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. YMLU8906947 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on October 12, 2019 under Bill of Lading No. W192270903

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. TEMU8753731 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on November 02, 2019 under Bill of Lading No. W192272792

In the matter of abandonment proceeding instituted against the shipment of 1x40' Container bearing No. TCNU3056776 stc: 365 pkgs. Personal Effects which arrived at the Port of Manila on December 11, 2019 under Bill of Lading No. W192273551

WILLXPRESS INC.,
Consignee,

VARIOUS CLAIMANTS (see attached list),
Ultimate consignees/claimants.

X-----X

ORDER

This is a review of the Decision dated 24 February 2021 of the District Collector, Port of Manila on the above-cited abandonment case, the dispositive portion of which states:

"WHEREFORE, in accordance with CMO 17-2019, it is hereby ordered and decreed that the prayer in the Affidavits of Claim filed by herein claimants be **GRANTED** and the Decrees of Abandonment issued against the subject shipments be partially **SET ASIDE** insofar as the following balikbayan boxes are concerned, subject to confirmation by the Commissioner and subject to CAO 13-2020 when applicable:

CONTAINER NO. TEMU8753731		
Consignee	Invoice No.	No. of Boxes
Marina F. Haskett	25626	
Wennie Milagros U. Pacate	25719	1
Caridad C. Mata	25717	3
Ryan Concepcion	25921	
Ernesto C. Siganay	25952	

A Modernized and Credible Customs Administration That is Among the World's Best

South Harbor, Gate 3, Port Area, Manila 1099
8527-4537, 8527-1935 | www.customs.gov.ph | boc.cares@customs.gov.ph

Judy Calajate	25466	1
Elena R. Moreno	22574	2

CONTAINER NO. TCNU30556776		
Consignee	Invoice No.	No. of Boxes
Ari Renato Beiandres	18456	1
Katrina Soriano Abuan	25628	2
Herminigilda Garbo	23102	4
Adoracion Llanes	22041	2
Corazon Nidua	24318	1
Joie Ferrer	22044	2 ½
Emiliano Gutierrez	22046	1
Alexander Tinga	26252	1
Irene De Leon	25976	1
Caridad C. Mata	25491	1
Annaliza Gudasen	25417	1
Ernesto G. Sigamay	25625	1
Lucia T. Soriano	25766	3
Judy Calajate	25489	1
Roldante S. Espereno	22047	1
Consuelo Del Rosario	21825	1
Napoleon Lamayo	25977	2
Rosario Tan	25773	2
Bernadette M. Laguardia	25771	2
Merely Sabian	25619	4
Roel R. Bongapat	26268	5
Cristy C. Magote	23757	
Hector N. Pangan	2501	

CONTAINER NOS. YMLU8858730/YMLU8906947		
Consignee	Invoice No.	No. of Boxes
Leonila Igarta	25441	2
Beverly Ricaforte	24624	1
Mark Albert Soriano	23566	1
Katrina Soriano Abuan	23567	1
Herminigilda Garbo	23101	3
Julius H. Bastian	18449	2
Ariel Cortezano	25447	1
Abelardo Germono Jr. (deceased) represented by Teresita Germono	1006	1
Erlinda Ruzol	25449	2
Juvy Chua	11432	1
Jose Alcantara	11431	1
Maria Luisa Germono Bautista	25450	1
Anastacia F. Ventura	25440	1
Milagros Dait	25460	1
Victoria N. Fulache	25361	6
Milde Almabis	25477	2
Ricky Espana	25002	1
Edwin Castillo Magpantay	25435	1
Jaime M. Montilla	25174	1
Laarne T. Ramos	25001	2
Teresita M. Burdeos	25175	11
Edgardo Antonio Baroso	26256	4
Ponciano T. Salvatierra	25396	1
Agustin Galvez	24366	1
Anjoleene Nucum	25538	1

Let copies of this Decision be furnished to all parties and offices concerned for their information and guidance.

SO ORDERED.”

The antecedent facts of the instant case are as follows:

1. On various dates, several shipments of Personal Effects consigned to **WILLXPRESS INC. ("WILLXPRESS" for brevity)** arrived at the Port of Manila (POM), specifically:

CONTAINER NOS.	BILL OF LADING	DATE OF ARRIVAL
YMLU8858730	W192271657	22 September 2019
YMLU8906947	W192270903	12 October 2019
TEMU8753731	W192272792	2 November 2019
TCNU3056776	W192273551	11 December 2019

2. On 23 January 2020, WILLXPRESS submitted a letter to the POM District Collector denying the authority of **JENRICH FASTCARGO ("JENRICH" for brevity)** to use their company as the consignee for the subject shipments.
3. Noting the same, the Port of Manila deemed the foregoing letter of the consignee as an express abandonment of the subject shipments, thus, a Decree of Abandonment dated 01 April 2020 was issued under Abandonment Proceedings No. 2020-040.
4. On 02 April 2020, the Port *a quo* sent a copy of the Decree of Abandonment against the subject shipments to consignee at its given address, through LBC courier.
5. On 21 January 2021, the Port *a quo* notified the individual consignees of the subject shipments, through publication in the Bureau of Customs official website to file their claim on their respective balikbayan boxes which are covered by the Decree of Abandonment under A.P. No. 2020-040.
6. From January 22 to February 5, 2021, several individuals filed claims as the ultimate recipients/consignees and manifested their intention to assert ownership of their respective balikbayan boxes. After verification, the claimants were indorsed to the Law Division for determination of the veracity of their claims by submitting notarized Affidavits of Claim, copies of their respective Invoices, notarized Special Power of Attorney (if applicable) and valid i.D. of the claimant and his/her authorized representative.
7. During the processing of claims, the Law Division-POM found the following individuals submitting sufficient proofs of ownership on the balikbayan boxes, to wit:

CONTAINER NO. TEMU8753731		
Consignee	Invoice No.	No. of Boxes
Marina F. Haskett	25626	
Wennie Milagros U. Pacate	25719	1
Caridad C. Mata	25717	3
Ryan Concepcion	25921	
Ernesto C. Sigamay	25952	
Judy Calajate	25466	1
Elena R. Moreno	22574	2

CONTAINER NO. TCNU3056776		
Consignee	Invoice No.	No. of Boxes
Art Renato Belandres	18456	1
Katrina Soriano Abuan	25628	2
Herminigilda Garbo	23102	4

Adoracion Llanes	22041	2
Corazon Nidua	24318	1
Joie Ferrer	22044	2 ½
Emiliano Gutierrez	22046	1
Alexander Tinga	26252	1
Irene De Leon	25976	1
Caridad C. Mata	25491	1
Annaliza Gudasen	25417	1
Ernesto G. Sigamay	25625	1
Lucia T. Soriano	25766	3
Judy Calajate	25489	1
Roldante S. Espereno	22047	1
Consuelo Del Rosario	21825	1
Napoleon Lamayo	25977	2
Rosario Tan	25773	2
Bernadette M. Laguardia	25771	2
Merely Sabian	25619	4
Roel R. Bongapat	26268	5
Cristy C. Magote	23757	
Hector N. Pangan	2501	

CONTAINER NOS. YMLU8858730/YMLU8906947		
Consignee	Invoice No.	No. of Boxes
Leonila Igarta	25441	2
Beverly Ricaforte	24624	1
Mark Albert Soriano	23566	1
Katrina Soriano Abuan	23567	1
Herminigilda Garbo	23101	3
Julius H. Bastian	18449	2
Ariel Cortezano	25447	1
Abelardo Germono Jr. (deceased) represented by Teresita Germono	1006	1
Erlinda Ruzol	25449	2
Juvy Chua	11432	1
Jose Alcantara	11431	1
Maria Luisa Germono Bautista	25450	1
Anastacia F. Ventura	25440	1
Milagros Dait	25460	1
Victoria N. Fulache	25361	6
Milde Almabis	25477	2
Ricky Espana	25002	1
Edwin Castillo Magpantay	25435	1
Jaime M. Montilla	25174	1
Laarne T. Ramos	25001	2
Teresita M. Burdeos	25175	11
Edgardo Antonio Baroso	26256	4
Ponciano T. Salvatierra	25396	1
Agustin Galvez	24366	1
Anjoieene Nucurn	25538	1

8. On 24 February 2021, the POM District Collector issued a Decision on Abandonment Proceedings No. 2020-40, the dispositive portion of which is stated at the outset.
9. On 01 March 2021, the POM District Collector forwarded the afore-cited Decision and records of the instant case to the Commissioner of Customs for review and approval.

ISSUE:

Whether or not the claims of the various individuals as ultimate consignees on the balikbayan boxes may be given due course.

DISCUSSION:

After going over the records, this Office finds meritorious ground for setting aside the Decree of Abandonment against the subject shipment and allow the ultimate recipients/claimants to claim their respective balikbayan boxes.

Abandonment of the imported goods at customs is the renunciation by the importer of all his interests and property rights in the imported article. We refer to Section 1129 of the Customs Modernization and Tariff Act (CMTA), which provides for two (2) kinds of abandonment, to wit:

- a. express abandonment wherein the owner, importer or consignee signifies to the Collector his intention to abandon his importation in favor of the government in writing and under oath, and
- b. implied abandonment, which can be inferred in the following instances:
 - b.1 The owner or importer or consignee or interested party, after due notice, fails to file/lodge a Goods Declaration for his importation within the prescribed period in Section 407 prescriptive period of the CMTA;
 - b.2 Having filed the Goods Declaration, the owner or importer or consignee interested party, after due notice, fails to pay the assessed duties, taxes and other charges thereon within the prescribed period, or
 - b.3 If the regulated goods failed to comply with Section 117 of CMTA, within fifteen (15) days from date of final assessment;
 - b.4 Having paid the assessed duties, taxes and other charges, the owner, importer or consignee or interested party after due notice, fails to claim the goods within thirty (30) days from payment;
 - b.5 When the owner or importer fails to claim goods in customs bonded warehouses within the prescribed period.

The instant case was deemed an express abandonment by the Port a quo where the named consignee WILLXPRESS expressly denied the authorization of the consolidator JENRICH to use their company as the consignee for the subject shipments per its letter dated 23 January 2020 to the POM District Collector.

The named consignee WILLXPRESS INC. is a **freight forwarder** which is defined as *"a local entity that acts as a cargo intermediary and facilitate transport of goods on behalf of its clients without assuming the role of a carrier, which also performs other forwarding services, such as booking cargoes negotiating freight rates, preparing documents, advancing freight payments, providing packing or crating, trucking or warehousing, engaging as an agent or as a representative of a foreign NVOCC or as a cargo consolidator named in a master bill of lading as a consignee of a consolidated shipment, and other related undertakings"*¹.

Thus, WILLXPRESS is a nominal consignee of the consolidated shipments of balikbayan boxes, which effectively possesses no other right, title or interest in the goods except it was named consignee by the foreign consolidator. Hence, its letter dated 23 January 2020 denying the authority of the consolidator JENRICH to use the company as the consignee for the subject shipments does not constitute an express abandonment as it is not considered the true and actual owner thereof.

¹ CAO No. 01-2018, "Amend Rules on Consolidated Shipments of Balikbayan Boxes", par. 3.12.

However, due to its denial of ownership of the subject shipments, the POM District Collector issued a Decree of Abandonment dated 01 April 2020 against the subject shipments under Abandonment Proceedings No. 2020-040.

On 21 January 2021, the Port a quo notified the ultimate recipients/consignees of the subject shipments, through publication in the Bureau of Customs official website to file their claim on their respective balikbayan boxes which are covered by the Decree of Abandonment under A.P. No. 2020-040, in compliance with Customs Memorandum Order (CMO) No. 16-2019. Thereafter, several individuals filed claims as the ultimate recipients/consignees and manifested their intention to assert ownership of their respective balikbayan boxes. An ultimate recipient or consignee is referred to as: *the family member or relative of the sender of the balikbayan boxes who will be the ultimate beneficiary of the same*². In other words, the true owner of the balikbayan boxes.

Notably, Section 1130 of the CMTA (Treatment and Disposition of Abandoned Goods), specifically 2nd paragraph, provides that:

"If the Bureau has not disposed of the abandoned goods, the owner or importer of goods impliedly abandoned may, at any time within thirty (30) days after lapse of the prescribed period to file the declaration, reclaim the goods provided that all legal requirements have been complied with and the corresponding duties, taxes, and other charges, without prejudice to charges and fees due to the port or terminal operator, as well as expenses incurred have been paid before the release of the goods from customs custody".

In other words, the owner, importer or consignee may be given another chance to reclaim the shipment after the lapse the prescribed period but prior to its sale at public auction as long as he complies with all legal requirements.

Further, under Section 4.10 of Customs Administrative Order No. 01-2018, it states that:

"In case of consolidated shipments of Balikbayan Boxes or which no goods declaration has been lodged or remained unclaimed, the Bureau shall undertake measures to identify the names of the individual consignees and their addresses and send them notice to File Entry or Claim within fifteen (15) days from receipt of the Notice."

In this case, the ultimate recipients or consignees has manifested their continued interest and intention to claim their respective balikbayan boxes through the filing of Affidavits of Claim with supporting documents before with the Port of Manila.

In view of the foregoing, this Office finds sufficient ground for the setting aside of the Decree of Abandonment in POM Abandonment Proceedings No. 2020-040 against the subject shipments.

² CAO No. 01-2018, "Amend Rules on Consolidated Shipments of Balikbayan Boxes", par. 3.25.

WHEREFORE, premises considered, the Decision dated 24 February 2021 of the District Collector, Port of Manila on Abandonment Proceedings No. 2020-040 is hereby **AFFIRMED**. Accordingly, the ultimate consignees are directed to continue the processing of their respective balikbayan boxes within the period prescribed under existing rules, upon payment of duties and taxes, if warranted, and strict compliance with the applicable customs and allied laws, rules and regulations.

SO ORDERED.

Manila; APR 05 2021, 2021.



REY LEONARDO B. GUERRERO

Commissioner

MAR 29 2021