



Republic of the Philippines

Seizure Identification
No. 2023-018

- versus -

Vessel "M/V ZHONG HAI 69" presently docked in
Bani, Masinloc, Zambales, as implemented by
Mission Order No. 0602022,

X-----/

NOTICE OF DECISION

TO: The Owner of Vessel
M/V ZHONG HAI 69
presently docked in Bani,
Masinloc, Zambales

You are hereby notified by these presents that the District Collector, Port of Manila, rendered a
DECISION on May 31, 2023, in the above-entitled case, copy of which is hereto attached.

Port of Manila, Philippines, May 31, 2023.

FOR THE DISTRICT COLLECTOR:


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



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines

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No. 2023-018

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DECISION

This resolves the seizure proceeding instituted against the above-mentioned shipment for violation of Sections 400, 401, 402, and 407 in relation to Section 1113 Chapter 4 of R.A. 10863 otherwise known as "Customs Modernization and Tariff Act" (CMTA);

The antecedent facts of this case are as follows:

On 23 November 2022, Atty. Gilbert F. Ordoña, OIC Director, ESS, issued a Mission Order No. 0602022 relative to the report of unauthorized cutting and salvaging of the vessel M/V ZHONG HAI 69 docked at Bani, Point, Masinloc, Zambales;

Consequently, Ace E. Rojo, Acting Customs Boarding Officer, and Alexander C. Orfanel, Acting Customs Guard, submitted the Incident Report. Attached for reference is a portion of the said report stating thus:

"At about 4:35 in the Afternoon, we were at our station, and we received a call from the Philippine Coast Guard Masinloc regarding a dredger vessel that four men were allegedly cutting without proper permission from the concerned port authorities. Which (sic) we immediately went to the said place and we eventually recognized and found out that it was a foreign vessel and had a hold order coming from the RTC IBA ZAMBALES BRANCH with Case No. R-MNL-21-06014-CV dated January 14, 2022, Presiding Judge Virgilio V. Macaraig and it is hereby stated that there is an order to arrest and detain the airing (sic) vessel with the name MV ZHONG HAI 69 and MV GRIT. On our record, Z2K Resources, Inc. requested for relocate to another location from coastal water of Masinloc, Zambales to Bani Masinloc for conducting repairs and drydocking dated March 17, 2022. This is not yet local vessel and there is no corresponding document from the concerned agencies. This is a foreign vessel is still in the custody of Bureau of Customs under CMTA law, rules, and regulations".

On 29 November 2022, the Subport of Masinloc conducted a Search and Inspection of the vessel M/V ZHONG HAI 69 Dredger together with the representatives from WPD-ESS and Philippine Coast Guard Masinloc Zambales. This is pursuant to the Memorandum of Agreement between the Bureau of Customs and Philippine Coast Guard (PCG) dated November 2018 for the purpose of Border Control and Prevention of Smuggling and Customs Fraud;

Based on the records of the case, the vessel sailed from the port of China last 12 December 2019. It was determined that MV ZHONG HAI 69 is a foreign vessel. No proof was submitted to show that the corresponding duties and taxes have been paid or that the same had been cleared by the Bureau of Customs.

On 11 April 2023, finding existence of probable cause, a Warrant of Seizure and Detention (WSD) was issued by then District Collector, this Port, against M/V ZHONG HAI 69 for violation of Sections 400, 401, 402, and 407 in relation to Section 1113 Chapter 4 of R.A. 10863 otherwise known as "Customs Modernization and Tariff Act" (CMTA).

On 28 April 2023, the government prosecutor submitted its comment, praying that the subject vessel be forfeited in favor of the government.

On 03 May 2023, Notices of Hearing were sent to the claimant and the Legal Service Director's authorized representative, informing the parties that a hearing will be conducted on 08 May 2023 at 10:00 a.m.

On the time and date of hearing, the claimant failed to appear, prompting this Office to conclude that the claimant is no longer interested in the prosecution of its case or has waived its rights over the said items.

In the case at hand, it is clear from the records that no goods declaration was filed, and no payment of duties and taxes had been paid by the owner of the vessel. It was also presumed that the subject vessel was imported without payment of duties and taxes and was not cleared by the BOC. Furthermore, the records of the BOC are bereft of any evidence that it underwent conversion from foreign to local registry.

In the absence of any evidence to refute the violation and for failure of the claimant to comply with the required procedures, this Office finds the above-described vessel liable for forfeiture for violation of the following provisions of the CMTA:

“Section 1113. Property Subject to Seizure and Forfeiture.- Property that shall be subject to seizure and forfeiture include:

(g) Unmanifested goods found on any vessel or aircraft if manifest therefor is required;

(f) x x x;

(i) x x x;

(l) Goods sought to be imported or exported;

1. Without going through a customs office, whether the act was consummated, frustrated, or attempted;

2. x x x;

3. x x x;

4. x x x;

5. Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.”

Sec. 400. Goods to be Imported through Customs Office. – All goods imported into the Philippines shall be entered through a customs office at a port of entry or may be admitted to or removed from a free zone as defined in this Act, as the case may be.

Sec. 401. Importations Subject to Goods Declaration. – Unless otherwise provided for in this Act, all imported goods shall be subject to the lodgement of a goods declaration. A goods declaration may be for consumption, for customs bonded warehousing, for admission, for conditional importation, or for customs transit.

Sec. 402. Goods Declaration for Consumption. – All goods declaration for consumption shall be cleared through a formal entry process except for the following goods which shall be cleared through an informal entry process

Sec. 407. Goods Declaration and Period of Filing. – As far as practicable, the format of the goods declaration shall conform with international standards. The data required in the

