



MEMORANDUM

TO : **KARREN APRIL A. NOROÑO-GABION**
Officer-in-Charge
Public Information and Assistance Division (PIAD)

THRU : **ATTY. MARIA YASMIN M. OBILLOS-MAPA**
Acting District Collector, Port of NAIA

FROM : **ATTY. WALLY ANN D. YUMUL**
Acting Chief, Law Division

SUBJECT : **PUBLICATION IN THE BOC WEBSITE OF THE ISSUED DECISIONS**

DATE : **30 JUNE 2023**

This refers to the herein attached Decisions of Forfeiture:

- 1. SEIZURE IDENTIFICATION NO. 046-2023 (NAIA):** Shipment of Two Thousand Nine Hundred Eighty Nine Point Nineteen Grams (2,989.29 g) of Cocaine (Powder) with an estimated value of Fifteen Million Eight Hundred Forty Two Thousand Seven Hundred Seven Pesos (Php15,842,707.00) brought in by incoming passenger **DOMINGO FRANCO QUINTANILLA**;
- 2. SEIZURE IDENTIFICATION NO. 047-2023 (NAIA):** Shipment of 8,169.27 grams of white crystalline substance, found positive for the presence of Methamphetamine Hydrochloride, a dangerous drug placed inside the two (2) pieces of luggage of incoming passenger **PHILIP C. CAMPBELL**;
- 3. SEIZURE IDENTIFICATION NO. 047-2023 (NAIA):** Shipment of Bag containing Two Thousand Eight Hundred Forty-Six (2,846) grams of Methamphetamine Hydrochloride with an estimated value of Nineteen Million Three Hundred Fifty-Two Thousand Eight Hundred Pesos (Php19,352,800.00) under the name of **SARA TABITYA**;
- 4. SEIZURE IDENTIFICATION NO. 053-2023 (NAIA):** Shipment of One Hundred Sixty Two (162) Pieces of Maxtop Vitamin Color Cream brought in by incoming Vietnamese passenger **HOANG BACH**, who arrived on 06 February 2023 at NAIA Terminal 2;

As the aforementioned passengers/claimants have indicated insufficient addresses in the Philippines, the Decisions must be served by posting in the bulletin board of this Port and by electronic posting in the BOC website for fifteen days, as provided under Section 6.5.2 of CAO No. 10-2020, to wit:

6.5.2. To the owner of the goods or his authorized representative.

For the purpose of serving the WSD, the importer, consignee, named in the bill of lading or airway bill, or possessor shall be deemed the owner of the goods.

If the owner is unknown, with insufficient address, or a foreign entity or individual, service shall be effected by posting of the WSD by the ESS in the bulletin board of the concerned collection district office, **and by electronic posting through the BOC website, or printed publication, for fifteen (15) days.**

In view of the foregoing, this Office respectfully request that the copies of the Decisions be electronically posted with the BOC website for fifteen (15) days. A copy of said warrant is herein attached. Furthermore, scanned copies thereof were also forwarded to Piad@customs.gov.ph and Jessil.garlando@customs.gov.ph.



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 046-2023 (NAIA)

-versus-

Two Thousand Nine Hundred Eighty Nine Point Nineteen Grams (2,989.29 g) of Cocaine (Powder) with an estimated value of Fifteen Million Eight Hundred Forty Two Thousand Seven Hundred Seven Pesos (Php15,842,707.00) brought in by incoming passenger **DOMINGO FRANCO QUINTANILLA**.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the 2,989.29 grams of Cocaine Powder found in the luggage of Mr. Domingo Franco Quintanilla, a Salvadorian national and holder of Passport No. A02333631, for violation of Section 119 (d) in relation to Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), and Section 4 of Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The records of the instant case show the following antecedent facts, viz:

1. Mr. Domingo Franco Quintanilla, a Salvadorian national, arrived on May 22, 2023 at the Ninoy Aquino International Airport Terminal 3 on board Qatar Airways Flight QR 932 from Qatar.
2. Inspector Maria Lyn M. Dela Ganar of the X-ray Inspection Project (XIP), called the attention of Ms. Lee Anne A. Perez, Customs Examiner on duty at the Arrival Customs Lane regarding two (2) handcarry bags – one black duffel bag and one black backpack which yielded a suspicious image.
3. Incoming passenger Domingo Franco Quintanilla proceeded to the Customs Examination Lane manned by Acting Customs Examiner Lee Ann A. Perez, who then asked the passenger if the latter filled out a Customs Baggage Declaration Form (CBDF) to which he replied in the negative. Thereafter, passenger Quintanilla submitted his accomplished CBDF with nothing declared on it and his passport. She then asked the passenger if he has anything to declare to which the latter replied in the negative. Then, Acting Customs Examiner Perez asked passenger Quintanilla if he owns the two handcarry bags to which he affirmed.
4. In the presence of passenger Quintanilla, PDEA K9 Handler Marlon Mofan conducted a K9 inspection of the two handcarry bags using the PDEA Narcotic Detection Dog (NDD), and the detection dog yielded a positive indication of the presence of dangerous drug in the black duffel bag.
5. Immediately thereafter, Acting Examiner Perez, in the presence of the passenger and witnessed by Ivan Paolo B. Durana, Acting Flight Supervisor,

- and representatives of the Enforcement and Security Service (ESS), Customs X-ray Inspection Project (XIP), Customs Intelligence and Investigation Service (CIIS), PDEA and the NAIA-IADITG operatives, conducted an actual physical examination of the black duffel bag which yielded assorted clothes and one of the clothes was wrapped in transparent plastic and felt that something was bulging inside it. She scrutinized the said cloth which revealed another black cloth wrapped around a transparent plastic covered with carbon paper and containing white powdery substance.
6. Sensing the commotion created by the incident at the Arrival Examination Lane, Acting Examiner Perez requested that they transfer to the Exclusion Room of the Customs Arrival Office for further examination of the black duffel bag wherein she found other clothes wrapped in transparent plastics and all of them revealed another black cloth which yielded transparent plastic containing white powdery substance.
 7. Acting Examiner Perez also conducted an actual physical examination of the black backpack which contained only personal clothes and toiletries inside. Thereafter, the pieces of evidence subject of seizure were then photographed, marked and inventoried in the presence of passenger Quintanilla, Prosecutor Joahna A. Gabatino-Lim, Barangay Kagawad Nelson Garcia from Barangay 197 Pasay City, and Media Representative Alex Mendoza from Hataw, a local publication, who were all present during the conduct of the actual physical examination.
 8. Upon the conduct of a field test of the white powdery substance by PDEA Agent Jennylyn Rivera, the same yielded positive for the presence of Cocaine.
 9. Immediately thereafter, using a Google translation, PCP Cornelio Balatbat introduced himself as NAIA-IADITG operative, notified passenger Quintanilla that the whole procedure is being properly recorded and that he is being arrested for violation of Republic Act No. 9165. Mr. Quintanilla was further apprised of his constitutional rights in a language/dialect known and understood by him.
 10. Thereafter, Acting Examiner Perez resealed the two handcarry bags together with their contents. The pieces of evidence and the arrested passenger Quintanilla were brought to the NAIA-IADITG Office at NAIA Terminal 3 for investigation, documentation, and for physical examination at the PNP Crime Laboratory at Camp Crame, Quezon City, and Drug Test at the PDEA Laboratory Service at the PDEA National Headquarters in Quezon City.
 11. Acting Examiner Perez personally turned over the seized drug evidence in the presence of passenger Quintanilla to the PDEA Laboratory Service for laboratory testing and evaluation. Chemistry Report No. PDEA-NCR-23-0084 dated 22 May 2023 which revealed that the seized drug evidence submitted yielded POSITIVE result for the presence of Cocaine, a dangerous drug under RA 9165, with a total gross weight of 2,989.19 grams.
 12. The seized dangerous drugs have an estimated value of Fifteen Thousand Eight Hundred Forty-Two Thousand Seven Hundred Seven Pesos (Php15,842,707.00).

13. Thereafter, passenger Ozenir and his belongings, together with the 3,819.46 grams of Powder Cocaine and 1500 milliliters Liquid Cocaine were turned over to PDEA for institution of inquest proceedings.
14. In a Memorandum dated May 23, 2023 for the District Collector, this Port, thru Mr. Ivan Paolo B. Durana, Acting Flight Supervisor, Mr. Roberto A. Quintana, Chief, Arrival Operations Division, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, Acting Customs Examiner Lee Anne A. Perez, recommended for the issuance of Warrant of Seizure and Detention against the seized dangerous goods for violation of Section 4 of Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, in relation to Sections 118, 1113, 1401 and 1404 of the Customs Modernization and Tariff Act (CMTA).
15. On the basis of the records on file, it is indubitable that the white crystalline substance which was found in the black duffel bag of incoming passenger Domingo Franco Quintanilla, with a total weight of 2,989.19 grams and reportedly with a street value of Php15,842,707.00 which was found positive for the presence of Cocaine, a dangerous drug under Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is restricted under paragraph (d) of Section 119 (Restricted Importation and Exportation) of the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 119, Paragraph (d) of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

*"9.3 If the subject shipment involved has been sufficiently established to be prohibited, the same shall be **ipso facto forfeited in favor of the government.**" (Emphasis and underscoring supplied)*

"Section 119. Restricted Importation and Exportation. – Except when authorized by law or regulation, the importation or exportation of the following restricted goods are prohibited:

(d) Marijuana, opium, poppies, coca leaves, heroin or other narcotics x x x

Moreover, Section 1113 of the Customs Modernization and Tariff Act (CMTA) provides:

"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 and 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;" (Emphasis and bold ours).

(I) Goods sought to be imported or exported.

X X X X X X

3. Through a false declaration or Affidavit executed by the owner, importer, or exporter or consignee concerning the importation of such goods.

XXX

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

WHEREFORE, the 2,989.19 grams of Powder Cocaine is hereby declared *ipso facto* **FORFEITED** for violation of Section 1113 (f) and (I) 3 and 5, and Section 119 (d) of the Customs Modernization and Tariff Act (CMTA), in relation to Section 4 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, to be turned over to the Philippine Drug Enforcement Agency (PDEA) for final disposition thereof pursuant to Customs Administrative Order (CAO) No. 10-2020 bearing the subject "Seizure and Forfeiture Proceedings and Appeals Process".

Let copies of this Decision be furnished to all offices and parties concerned for their information, and a copy thereof to be posted on the Bulletin Board of the Law Division and the Arrival Operations Division, this Port, for information of all concerned.

SO ORDERED.

BOC-NAIA, Pasay City, Metro Manila, 01 June 2023.

ATTY. MARIA YASMIN M. ~~QUELOS-MARA~~
Acting District Collector

Law/wady/eyllv



REPUBLIC OF THE PHILIPPINES

-versus-

SEIZURE IDENTIFICATION
NO. 047-2023 (NAIA)

8,169.27 grams of white crystalline substance, found positive for the presence of Methamphetamine Hydrochloride, a dangerous drug placed inside the two (2) pieces of luggage of incoming passenger **PHILIP C. CAMPBELL.**

X-----X

D E C I S I O N

This resolves the seizure and forfeiture proceedings instituted against the 8,169.27 grams of white crystalline substance which was found positive for the presence of Methamphetamine Hydrochloride, a dangerous drug found inside the two (2) pieces of baggage of one Philip C. Campbell, a Liberian national and holder of Passport No. PP0074420, for violation of Section 4 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and Section 119 (d) in relation to Section 1113 (f) and (l) (3) (5) of the Customs Modernization and Tariff Act (CMTA).

As culled from the records, the antecedent facts of the instant seizure case are as follows:

1. Philip C. Campbell, a Liberian national and holder of Passport No. PP00074420, arrived on 05 June 2023 at the Ninoy Aquino International Airport Terminal 3 on board Qatar Airlines Flight QR 934 from Lagos, Nigeria.
2. Customs Examiner Raneses was then notified by PDEA Agent Reyes regarding the two (2) pieces of baggage which were not claimed at the Conveyor Area of the said terminal. Immediately, the PDEA K9 Handler conducted a K9 sweeping using the PDEA Narcotic Detection Dog (NDD). Said K9 sweeping yielded a positive indication of the presence of dangerous drugs. Thereafter, both pieces of baggage were marked with "X" by the XIP Inspector on duty at the Arrival Area.
3. PDEA Agent Reyes, together with NAIA-IADITG operatives then coordinated with the Bureau of Immigration and were informed that the passenger/owner of the said pieces of baggage, a certain Philip C. Campbell, was being held at the immigration checkpoint counter. The PDEA Agent then informed the Bureau of Immigration that Campbell's pieces of baggage were left unclaimed at the conveyor area and that his presence is required for the conduct of an actual physical examination of his baggage.
4. Accompanied by a BI Officer on duty, Campbell proceeded to the Arrival Area where he picked up his pieces of luggage. The Customs Examiner Raneses then requested Campbell to fill up a Customs Baggage Declaration Form and to submit his Passport. Campbell was likewise asked if he had anything to declare to which he answered in the negative. Thereafter, Campbell submitted the accomplished CBDF. The Customs Examiner further asked Campbell if the two pieces of baggage belong to him, to which he replied in the affirmative.

5. In the presence of passenger Campbell, PDEA Agent Cammayo instructed PDEA K9 Handler Ryan Collantes to conduct another K9 sweeping of the baggage which again showed a positive indication for the presence of dangerous drugs.
6. Thereafter, Customs Examiner Raneses conducted an actual physical examination of the two pieces of baggage in the presence of the representatives of the ESS, XIP, CIIS, PDEA and NAIA-IADITG. Said examination yielded several plastic pouches of dried fish, shrimps, flowers and powdered condiments which emitted foul odor. Customs Examiner Raneses then noticed that some of the plastic pouches which contained powdered condiments are unusually heavy. This prompted her to open one plastic pouch where she found an improvised pouch wrapped in masking tape which also conceals another plastic pouch wrapped in carbon paper containing white crystalline substance.
7. PDEA Agent Nikki Reyes then immediately conducted a field test of the white crystalline substance which gave positive result for the presence of Methamphetamine, a dangerous drug.
8. Sensing the commotion created by the incident at the Arrival Examination Lane, Customs Examiner Raneses requested that they transfer to the Exclusion Room of the Customs Arrival Office for further examination of the two pieces of baggage. She then found nine (9) more pouches of powdered condiments and six (6) pouches of dried shrimps which also concealed improvised pouches containing white powdery substance.
9. PDEA Agent Reyes then conducted another field test of the said white powdery substance found inside the nine (9) pouches of powdered condiments and six (6) pouches of dried shrimps and the same also yielded positive result for the presence of Methamphetamine.
10. Immediately thereafter, PDEA Agent Nikki Reyes introduced herself as PDEA operative and notified passenger Campbell that the whole procedure is being properly recorded. She then told Campbell that he is being arrested for violation of Republic Act No. 9165. Passenger Campbell was further apprised of his constitutional rights in a language/dialect known and understood by him.
11. Thereafter, the pieces of evidence were gathered, photographed, marked and inventoried in the presence of the arrested passenger Campbell and the same was witnessed by Barangay Kagawad Nelson B. Garcia of Barangay 197 Zone 20, Pasay City, Media Representative Antonio S. Gildo of DZME and Prosecutor Joana A. Gabatino-Lim of the Office of the City Prosecutor of Pasay City. Passenger Campbell and the pieces of evidence were then brought to the NAIA-IADITG Office at NAIA Terminal 3 for physical examination. The passenger was thereafter brought to the PNP Crime Laboratory, Camp Crame, Quezon City for drug testing. The pieces of evidence gathered were brought to the PDEA Laboratory Service at the PDEA Main Headquarters in Quezon City.
12. Chemistry Report No. PDEA-NCR-23-0094 dated 06 June 2023 revealed that the seized drug evidence submitted yielded POSITIVE result for the presence of Methamphetamine, a dangerous drug under RA No. 9165, with a total gross weight of 8,169.27 grams and an estimated value of Fifty-Five Million Five Hundred Fifty One Thousand Thirty Six Pesos (Php55,551,036.00).
13. The drug test conducted on Passenger Campbell yielded positive result for the presence of Methamphetamine and its metabolite, as can be shown in PDEA-NCR-DT23-044-001. Thereafter, Campbell was turned over to the PDEA RO-NCR Jail Facility for temporary custody.

14. In a Memorandum dated June 9, 2022, Customs Examiner Katrina Lea Raneses and Flight Supervisor Ramon F. Rodriguez reported their findings to the District Collector, this Port, duly concurred by Atty. Danilo M. Campos, Chief, Arrival Operations Division and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, with the recommendation for the issuance of Warrant of Seizure and Detention against the 8,169.27 grams of Methamphetamine Hydrochloride for violation of Section 4 of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

On the basis of the records on file, it is indubitable that the 8,169.27 grams of white crystalline substance which were found inside the two (2) pieces of baggage brought in by passenger Philip C. Campbell upon his arrival at the Ninoy Aquino International Airport Terminal 3 on 06 June 2023 is positive of the presence of Methamphetamine Hydrochloride, otherwise known as "Shabu", a dangerous drug under Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, to wit:

ARTICLE II Unlawful Acts and Penalties

Section 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.- The penalty of life imprisonment to death and a ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

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On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 119 (d) of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

*"9.3 If the subject shipment involved has been sufficiently established to be prohibited, the same shall be **ipso facto forfeited in favor of the government.**" (Emphasis and underscoring supplied)*

"Section 119. Restricted Importation and Exportation. – Except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

- (d) Marijuana, opium, poppies, coca leaves, heroin **or other narcotics x x x**"

In conjunction, the importation of the subject parcel is in violation of Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), which provides that:

"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;"

xxx

(l) Goods sought to be imported or exported.

xxx

3. Through a false declaration or Affidavit executed by the owner, importer, or exporter or consignee concerning the importation of such goods.

xxx

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

WHEREFORE, the 8,169.27 grams of Methamphetamine Hydrochloride, otherwise known as "Shabu", which is a dangerous drug under Republic Act 9165, is hereby declared *ipso facto* **FORFEITED** for violation of Section 1113 (f) and (l) (3) and (5), and Section 119 (d) of the Customs Modernization and Tariff Act (CMTA), in relation to Section 4 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, to be turned over to the Philippine Drug Enforcement Agency (PDEA) for final disposition thereof pursuant to Customs Administrative Order (CAO) No. 10-2020 bearing the subject "Seizure and Forfeiture Proceedings and Appeals Process".

Let copies of this Decision be furnished to all offices and parties concerned for their information, and a copy thereof to be posted on the Bulletin Board of the Law Division and the Arrival Operations Division, this Port, for information of all concerned.

SO ORDERED.

BOC-NAIA, Pasay City, 22 June 2023.


ATTY. MARIA YASMIN M. OBILLOS-MAPA
Acting District Collector

Law/wady/eyllv



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 049-2023 (NAIA)

-versus-

Bag containing Two Thousand Eight Hundred Forty-Six (2,846) grams of Methamphetamine Hydrochloride with an estimated value of Nineteen Million Three Hundred Fifty-Two Thousand Eight Hundred Pesos (Php19,352,800.00) under the name of **SARA TABITYA**

X-----X

D E C I S I O N

This resolves the seizure and forfeiture proceedings instituted against the above-subject dangerous drug for violation of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and Section 119 (d) in relation to Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA).

Culled from the records of the instant case are the following antecedent facts, viz:

1. On 17 May 2023, while conducting an inventory of abandoned pieces of baggage at the Interline Baggage Room, Baggage Assistance Division, NAIA Terminal 1, an Interline Baggage personnel came upon a one black trolley backpack which was unusually heavy in weight.
2. A cursory check of the documents available at the Interline Baggage Section would show that said black trolley backpack was not claimed upon arrival of an Ethiopian Airways Flight ET 644 from Addis Ababa, Ethiopia on 26 December 2022. The baggage tag attached to it showed that it belonged to a certain Sara Tabitya, a Ugandan national, who was supposed to arrive on 24 December 2022 on board Flight ET644. She was, however, excluded from the said flight.
3. A non-intrusive examination was conducted wherein the subject backpack exhibited suspicious images of illegal substance concealed inside. Immediately thereafter, Jireh Marielle E. Bautista, Customs Examiner at the Arrival Operations Division conducted a 100% physical examination on the subject backpack, in the presence of the then Deputy Collector for Passenger Service, Mr. Ivan Paolo Durana, Flight Supervisor, Interline Baggage Room personnel, and representatives from the Enforcement and Security Service (ESS) and the X-ray Inspection Project (XIP) who were on duty at the Arrival Area.
4. During the examination, it was found that the black trolley backpack contained assorted clothes, bag and pouch. When Customs Examiner Bautista ripped the lining of the backpack, she found an improvised pouch made of cardboard and paper foam which contained white crystalline substances.
5. Customs Examiner Bautista, together with the aforesaid witnesses, transferred to the Arrival Exclusion Room to conduct a field testing of the said white crystalline substance to be done by the Customs Anti-Illegal Drugs Task Force (CAIDTF). Said testing which showed positive result for the presence of Methamphetamine. Samples of the white crystalline substance were then taken, photographed, marked and inventoried in the presence of Barangay 197 Kagawad Nelson B. Garcia, Barangay 197, Zone 20, Pasay City, Media Representative Raoul Esperas

and SACP representative Serafin S. Salazar of the City Prosecutors' Office, Pasay City Hall of Justice.

6. Thereafter, Customs Examiner Bautista personally brought the samples to NAIA-IADITG Office at NAIA Terminal 3 for investigation/documentation and for further physical examination at the PNP QCPD Forensic Unit, Quezon City, and also for qualitative examination of the drug samples at the PDEA Laboratory Service, PDEA National Headquarters in Quezon City.
7. PDEA Chemistry Report No. PDEA-NCR-23-0081 was then issued with the following findings: "Qualitative examination of specimen **A-6** gave **POSITIVE** result for the presence of **Methamphetamine Hydrochloride**".
8. In a Memorandum dated 17 May 2023, Ms. Jireh Marielle E. Bautista, Customs Examiner, and Mr. Ivan Paolo B. Durana, Acting Flight Supervisor, thru the Chief, Arrival Operations Division, and Deputy Collector for Passenger Service, reported to the District Collector, this Port, their findings that the said black trolley backpack contained, among others, white crystalline substance which was found positive for the presence of Methamphetamine Hydrochloride, a dangerous drug, and recommended for the issuance of Warrant of Seizure and Detention against the same for violation of Section 4 of Republic Act (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and Section 119 (d) in relation to Section 1113 (f) of Republic Act 10863, also known as the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

On the basis of the records on file, it is indubitable that the subject black trolley backpack contains white crystalline substance which was found positive for the presence of Methamphetamine Hydrochloride, a dangerous drug under Republic Act 9165, to wit:

ARTICLE II Unlawful Acts and Penalties

Section 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.- The penalty of life imprisonment to death and a ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

xxx

On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 119 (d) and Section 119 (d) of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

"9.3 If the subject shipment involved has been sufficiently established to be prohibited, the same shall be *ipso facto* forfeited in favor of the government." (Emphasis and underscoring supplied)

"Section 119. Restricted Importation and Exportation. – Except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

A Modernized and Credible Customs Administration That Is Among the World's Best
Old MIA Road, Pasay City 1300

Tel. no. (02) 8832-3035 | www.customs.gov.ph | naia@customs.gov.ph

- (d) Marijuana, opium, poppies, coca leaves, heroin or other narcotics x x x"

Moreover, Section 1113 of the Customs Modernization and Tariff Act (CMTA) provides:

"SECTION 1113. Property Subject to Seizure and Forfeiture. – Property that shall be subject to seizure and forfeiture include:

X X X X X X

- (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;" (Underline for emphasis)

WHEREFORE, the subject black backpack which contained 2,846 grams of Methamphetamine Hydrochloride is hereby declared *ipso facto* **FORFEITED** for violation of Section 1113 (f) and Section 119 (d) of the Customs Modernization and Tariff Act (CMTA), in relation to Section 4 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, to be turned over to the Philippine Drug Enforcement Agency (PDEA) for final disposition thereof pursuant to Customs Administrative Order (CAO) No. 10-2020 bearing the subject "Seizure and Forfeiture Proceedings and Appeals Process".

Let copies of this Decision be furnished to all offices and parties concerned for their information, and a copy thereof to be posted on the Bulletin Board of the Law Division and the Arrival Operations Division, this Port, for information of all concerned.

SO ORDERED.

BOC-NAIA, Pasay City, 22 June 2023.


ATTY. MARIA YASMIN M. OBILLOS-MAPA
Acting District Collector

Law/wady/eylIV



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 053-2023 (NAIA)

-versus-

One Hundred Sixty Two (162) Pieces of Maxtop Vitamin Color Cream brought in by incoming Vietnamese Passenger, **HOANG BACH**, from Vietnam who arrived on 06 February 2023 at NAIA Terminal 2

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described One Hundred Sixty Two (162) Pieces of Maxtop Vitamin Color Cream for violation of Section 118 (g) and 1113 (f) of the Customs Modernization and Tariff Act (CMTA) and Paragraph 9.3 of Customs Administrative Order No. 10-2020, in relation to Republic Act No. 9711 or the Food and Drug Administration (FDA) Act of 2009 and Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711.

A cursory review of the entire records of the instant seizure and forfeiture case reveals the following antecedents, to wit:

1. On 06 February 2023, passenger Hoang Bach with Passport No. Q00029005, arrived at the Ninoy Aquino International Airport on 06 February 2023 on board Flight PR596 from Vietnam.
2. His baggage was marked "X" by XIP Operator Jorge Fabre during routine x-ray inspection and was assigned to Acting Customs Examiner Bea Lois V. Montaril.
3. Before conducting an actual examination, Custom Examiner Montaril asked for the accomplished Customs Baggage Declaration Form (CBDF) of Mr. Bach. In the submitted CBDF, examiner Montaril noted that passenger Bach ticked "Yes" to No. 4 of the said Form. When he was asked if he has anything to declare, he replied in the affirmative.
4. Thereafter, Examiner Montaril conducted the actual examination of the subject baggage and yielded One Hundred Sixty-Two (162) pcs. of Maxtop Vitamin Color Cream with a total estimated value amounting to One Hundred Eighty (\$180.00) Dollars.
5. For failure to present permit/clearance, the subject items were held in-bond for safekeeping and passenger Bach was issued Held Baggage Receipt No. 00100002193. The subject items were received by Charles Aguila of the In-Bond Section, Baggage Assistance Division, this Port.
6. In a Memorandum dated 06 February 2023 for the District Collector, Bea Lois V. Montaril, Acting Custom Examiner and Ivan Paolo B. Durana, Acting Flight Supervisor, thru the then Deputy Collector for Passenger Service submitted their Incident Report and recommended for the presentation of Food and Drug Administration Import Permit of the subject articles.
7. In a Memorandum dated 13 June 20223, the Chief, Baggage Assistance Division, thru then Acting Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention against the subject articles for lack of Import Permit/Clearance.

DISCUSSION:

As culled from the records of the instant case, passenger Hoang Bach brought into the country the subject One Hundred Sixty Two (162) Pieces of Maxtop Vitamin Color Cream without license, permit/clearance nor authorization from the FDA as required in Section 10 of RA No. 9711 or the Food and Drug Administration (FDA) Act of 2009 which states that:

“Section 10. Section 11, subsections (a), (b), (d), (g), (j), (k) and (l) of Republic Act No. 3720, as amended, are hereby further amended to read as follows:

“SEC. 11. The following acts and the causing thereof are hereby **prohibited**:

xxx

(k) The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, or retail of any drug, device or in-vitro diagnostic reagent; the manufacture, importation, exportation, transfer or distribution of any food, cosmetic or household/urban hazardous substance; or the operation of a radiation or pest control establishment by any natural or juridical person **without the license to operate from the FDA required under this Act.**”

Relatively, Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711 - The Food and Drug Administration Act of 2009 expressly prohibits such importation, to wit:

“Section 1. General Provisions.

1. The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertising, or sponsorship **of any health product without the proper authorization from the FDA is prohibited.**
2. The manufacture, **importation**, exportation sale, offering for sale, distribution transfer, or retail of any drug or device; the manufacture, importation, exportation transfer or distribution of any food, cosmetics, household hazardous substances or urban pesticides; or the operation of a radiation facility or pest control establishment **without the appropriate authorization from the FDA is prohibited.**”

On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 118 (g) of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

“9.3 If the subject shipment involved has been sufficiently established to be **prohibited**, the same shall be **ipso facto forfeited** in favor of the government.”

“**Section 118. Prohibited Importation and Exportation.** – The importation and exportation of the following goods are *prohibited*:

- (g) All other goods or parts thereof *which importation and exportation are explicitly prohibited by law or rules and regulations issued by the competent authority.*



WHEREAS, Section 1113 of the Customs Modernization and Tariff Act (CMTA) provides that:

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

X X X X X X

- (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;” (Underline for emphasis)

WHEREFORE, the One Hundred Sixty Two (162) Pieces of Maxtop Vitamin Color Cream brought in by Passenger **HOANG BACH** is hereby declared *ipso facto* **FORFEITED** for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA) and Paragraph 9.3 of Customs Administrative Order (CAO) No. 10-2020, in relation to Section 10 of Republic Act No. 9711 or the Food and Drug Administration (FDA) Act of 2009 and Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711 or The Food and Drug Administration Act of 2009, to be turned over the same to the Auction and Cargo Disposal Division (ACDD) for custody and safekeeping and for final disposition thereof CAO No. 10-2020 bearing the subject “Seizure and Forfeiture and Appeals Process”.

Let copies of this Decision be furnished to all offices and parties concerned for their information, and a copy thereof to be posted in the Bulletin Board of the Law Division and the arrival Operations Division, this Port, for information of all concerned.

SO ORDERED.

BOC-NAIA, Pasay City, 30 June 2023.


ATTY. MARIA YASMIN M. OBILLOS-MAPA
Acting District Collector

Wdy/law/ham