



1949272231

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

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

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

DATE : **3 OCTOBER 2023**

This refers to the herein attached Decisions of Forfeiture:

1. **SEIZURE IDENTIFICATION NO. 097-2023 (NAIA)**: Republic of the Philippines vs Eighteen (18) pieces of Amiro Beauty Moisturizing Spray brought in by **LEE AN-KUO**;
2. **SEIZURE IDENTIFICATION NO. 098-2023 (NAIA)**: Republic of the Philippines vs Ten (1) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, Four (4) bottles of C4 (Yellow), twenty (20) bottles of Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and Ten (10) bottles of Super Rush Original, brought in by **DUC QUAN TO**;

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 Warrant of Seizure and Detention 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. 097-2023 (NAIA)

-versus-

Eighteen (18) pieces of Amiro Beauty Moisturizing Spray brought in by **LEE AN-KUO**, who arrived on 25 July 2023 and held in custody at the In Bond Section, Baggage Assistance Division under Held Baggage Receipt No. 00100002003.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described eighteen (18) pieces of Amiro Beauty Moisturizing Spray 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 25 July 2023, Lee An-Kuo, a Chinese national and holder of Passport No. 31134385, arrived at the Ninoy Aquino International Airport on board Eva Airways Flight BR 271 from Taiwan.
2. His checked-in baggage was marked "X" by X-ray Inspection Project (XIP) Operator Nonette Briones during the routine X-ray inspection and was referred to Acting Customs Examiner Jovelyn L. Alberto for physical examination.
3. Before conducting the said physical examination, Customs Examiner Alberto asked passenger Lee to submit his duly accomplished Customs Baggage Declaration Form (CBDF). Customs Examiner Alberto noted that Passenger Lee checked "No" to all the questions asked in page 3 of the CBDF, except for No. 4 thereof referring to "Cosmetics x x x". Passenger Lee was also asked if he had anything to declare, to which he replied in the affirmative.
4. Subsequently, Customs Examiner Alberto then conducted an actual physical examination of passenger Lee's luggage and the same yielded eighteen (18) pieces of Amiro Beauty Moisturizing Spray. However, passenger Lee could not present any prior Import Permit or Clearance from the Food and Drug Administration required under existing rules and regulations.
5. Customs Examiner Alberto thereafter issued Held Baggage Receipt No. 0010002003 to passenger Lee evidencing that the subject Amiro Beauty Moisturizing Sprays are being held in custody at the In Bond Section, Baggage Assistance Division, this Port.
6. In a Memorandum dated 25 July 2023, Customs Examiner Jovelyn L. Alberto and Ms. Belinda C. Copioso, Flight Supervisor, reported the said incident to the District Collector, this Port, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, and Mr. Norsalem Raymond M. Mama-o, Deputy

Collector, Passenger Service, and recommended that a Warrant of Seizure and Detention be issued against the 18 pieces Amiro Beauty Moisturizing Spray for lack of Import Permit/Clearance from the Food and Drug Administration.

7. In another Memorandum dated 08 September 2023, Mr. Roberto A. Quintana, Chief, Baggage Assistance Division, thru Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, recommended to the District Collector, this Port, for the issuance of Warrant of Seizure and Detention against the 18 pieces Amiro Beauty Moisturizing Spray for violation of Republic Act 9711 otherwise known as the Food and Drug Administration Act of 2009, and Section 117 of the Customs Modernization and Tariff Act (CMTA),

DISCUSSION:

As culled from the records of the instant case, passenger Lee An-Kuo brought into the country the eighteen (18) pieces of Amiro Beauty Moisturizing Spray 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 subject eighteen (18) pieces of Amiro Beauty Moisturizing Spray brought in by Passenger **LEE AN-KUO** is hereby declared *ipso facto* **FORFEITED**, for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), 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 - 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 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, OCT 01 2023 September 2023.

ATTY. MARIA YASMIN M. OBILLOS-MARA,
District Collector, BOC-NAIA

Wdy/law/eyllv



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION

NO. 098-2023 (NAIA)

-versus-

Ten (10) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, four (4) bottles of C4 (Yellow), twenty (20) bottles of the Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and ten (10) bottles of Super Rush Original, brought in by **DUC QUAN TO** on 11 July 2023 and held in custody under Held Baggage Receipt No. 00100003295.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described Ten (10) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, four (4) bottles of C4 (Yellow), twenty (20) bottles of the Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and ten (10) bottles of Super Rush Original for violation of Section 118 (g) and 1113 (f) of the Customs Modernization and Tariff Act (CMTA), 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 11 July 2023, Duc Quan To, a Vietnamese national and holder of Passport No. P02238816, arrived at the NAIA Passenger Terminal 1 on board Philippine Airlines Flight PR 596 from Vietnam.
2. His checked-in baggage was marked "X" by X-ray Inspection Project (XIP) Operator Sanny Lyn Fernandez during the routine X-ray inspection and was referred to Acting Customs Examiner Jewel Iris G. Abuejela for physical examination.
3. Before conducting the physical examination, Customs Examiner Abuejela asked the passenger to submit his filled-out Customs Baggage Declaration Form (CBDF). After going over the passenger's CBDF, Customs Examiner Abuejela noted that he ticked "No" to all the items on page 3 thereof except for Item No. 4 referring to "Cosmetics". Thereafter, Customs Examiner Abuejela asked passenger Duc Quan To if he had anything to declare to which he readily replied in the affirmative.
4. Subsequently, Customs Examiner Abuejela conducted an actual physical examination of the check-in baggage of passenger Duc Quan To which yielded the following articles: ten (10) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, four (4) bottles of C4 (Yellow), twenty (20) bottles of the Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and ten (10) bottles of Super Rush Original.

5. Customs Examiner Abuejela asked passenger Duc Quan To to present the Import Permit/Clearance from the Food and Drug Administration (FDA) for the subject articles, but could not present any. Thus, the subject articles were held from release. Held Baggage Receipt No. 00100003295 was issued to the passenger and the articles were turned over to the In Bond Section, Baggage Assistance Division, for safekeeping.
6. In a Memorandum dated 12 July 2023, Jewel Iris G. Abuejela, Acting Customs Examiner, Anthony C. Relucio, Acting Flight Supervisor, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported to the District Collector, this Port, her findings of the check-in baggage of passenger Duc Quan To and recommended that the shipment be held from release subject to the presentation of an Import Permit/Clearance from the Food and Drug Administration (FDA).
7. In another Memorandum dated a Memorandum dated 08 September 2023, Mr. Roberto A. Quintana, Chief, Baggage Assistance Division, thru Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention against the subject articles for lack of FDA Import Clearance in violation of Republic Act 9711 or the Food and Drug Administration Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger Duc Quan To brought into the country the Ten (10) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, four (4) bottles of C4 (Yellow), twenty (20) bottles of the Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and ten (10) bottles of Super Rush Original 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

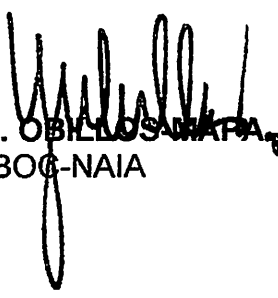
- (f) Goods, the importation or exportation of which are effected or attempted contrary to law, **or any goods of prohibited importation or exportation**, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;” (Underline for emphasis)

WHEREFORE, the subject Ten (10) bottles of G&N Hell Fist, four (4) bottles of Hero Man Scent, four (4) bottles of C4 (Yellow), twenty (20) bottles of the Bee, four (4) bottles of Jungle Juice Platium, four (4) bottles English Royale, four (4) bottles of C4 (Blue), and ten (10) bottles of Super Rush Original brought in by Passenger **DUC QUAN TO** is hereby declared *ipso facto* **FORFEITED**, for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), 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 - 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 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, ^{001 6 1 2023} September 2023.


ATTY. MARIA YASMIN M. OBILLOS MAPA,
District Collector, BOC-NAIA

Wdy/law/ham