



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines,

Seizure Identification
No. CFZ 110-2023

-versus-

Shipment said to contain **“LOCAL MADE SLINGBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE HANDBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE TOWEL (MADE OF COTTON)”** bound to Leominster, Massachusetts, USA which will be shipped thru Federal Express (FedEx) Clark on 03 May 2022 under House Airway Bill No. 776750029603 but found to contain **4 pcs. Dior Rimowa Sling Bag, 4 pcs. LV Bags, 2 pcs. LV Wallets, 10 pcs. LV Blankets, 2 pcs. Chanel Footwear, 2 pcs. Chanel Bags and 5 pcs. Chanel Blanket**

Exporter/Shipper:

HENRY REYES

149 Reparó St., Bagong Barrio, Caloocan City
1400 PH

Claimant.

x-----x

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Sections 118 (f) and 1113 (f) and (l) (3 & 4) of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation R.A. No. 8293 otherwise known as the Intellectual Property Code of the Philippines.

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

On 03 May 2022, a shipment bound to Leominster, Massachusetts, USA (Consignee: Taylor Keane) under House Airway Bill No. 776750029603 said to contain **“LOCAL MADE SLINGBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE HANDBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE TOWEL (MADE OF COTTON)”** under the name of HENRY REYES with address at 149 Reparó St., Bagong Barrio, Caloocan City 1400 PH arrived at the Federal Express (FedEx) gateway facility and marked for verification/physical examination by the X-ray Inspector on duty.

On 13 January 2023, a Mission Order was issued directing Trade Control Examiners to conduct inventory of various shipment for export suspected to contain counterfeit products and to obtain one (1) sample from each package for Intellectual Property Rights (IPR) verification.

On 03 February 2023, the Office of the District Collector received an After-Mission Report dated 30 January 2023 stating that Trade Control Examiners conducted a three-day inventory (17, 19 and 23 January 2023) on seventy-six (76) shipments suspected to contain counterfeit products and obtained one (1) sample from each package, including

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

Industrial Estate V, M.A. Roxas Highway, Clark Freeport Zone, Pampanga
(045) 499-0831- (045) 499-0828 | www.customs.gov.ph | clark@customs.gov.ph

the subject shipment, in the presence of representatives from Enforcement and Security Service (ESS), Customs Intelligence and Investigation Service (CIIS) and FedEx. The findings on the subject shipment were as follows:

AS DECLARED IN THE INVOICE	AS FOUND
<ul style="list-style-type: none"> • 5 PCS. LOCAL MADE SLINGBAG (MADE OF FABRIC AND CLOTH) • 5 PCS. LOCAL MADE HANDBAG (MADE OF FABRIC AND CLOTH) • 10 PCS. LOCAL MADE TOWEL (MADE OF COTTON) 	<ul style="list-style-type: none"> • 4 pcs. Dior Rimowa Sling Bag • 4 pcs. LV Bags • 2 pcs. LV Wallets • 10 pcs. LV Blankets • 2 pcs. Chanel Footwear • 2 pcs. Chanel Bags • 5 pcs. Chanel Blanket
<p style="text-align: center;">Value: USD 180.00 Gross Weight: 17.5 kgs.</p>	

In a letter dated 30 January 2023, Intelligence Officer II (IO2) Norma Del Rosario-Nucup, Field Station Chief, CIIS Port of Clark, requested Atty. Edmund Jason Baranda, authorized representative/duly authorized Attorney-in-Fact of Prada S.A., Yves Saint Laurent, Luxury Goods International (L.G.I.) S.A., Balenciaga and Guccio Gucci S.P.A. (the "Company"), to personally examine samples of various items bearing the mark Prada, Yves Saint Laurent, Bottega Veneta, Balenciaga and Gucci and a certification on their authenticity.

On 21 March 2023, the Office of the CIIS-Port of Clark received letters dated 16 and 20 March 2023 from Atty. Baranda attaching notarized Certifications confirming the examined samples to be **counterfeit** and said exporter's name is not included as authorized channel of the Company.

On 14 April 2023, the Office of the District Collector received a Memorandum dated 13 April 2023 from IO2 Rosario-Nucup, Field Station Chief, CIIS Port of Clark, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject shipment based on the notarized Certifications from Atty. Baranda.

Based on the discrepancy between the goods found during the physical examination and goods declared in the commercial invoice, Ms. Maricar Go, Officer-In-Charge (OIC) Export Unit, and Trade Control Examiner Marife Foloso, thru Ms. Lilibeth Mangsal, then Deputy Collector for Operations, submitted a Memorandum dated 22 March 2023 recommending the issuance of a WSD against the subject shipment for violation of Section 1113 (I) (3 & 4) of the CMTA.

On 24 April 2023, a WSD docketed as Seizure Identification (S.I.) No. CFZ 110-2023 was issued by then Officer-In-Charge of this Port, Collector John Simon, against the subject shipment.

In a Memorandum dated 16 May 2023 from SA I Fitzgerald T. Borja, noted by SP/Capt. Arnel A. Baylosis, District Commander, this Port, it is stated that the WSD and Notice of Hearing were received by Mr. Henry Reyes, the claimant.

On 16 May 2023, a hearing was conducted wherein the claimant appeared and a Notice to File Position Paper of even date was received by the latter with a directive to submit a verified Position Paper within five (5) days from receipt of the said notice.

On 19 May 2023, the claimant submitted a *Posisyong Papel* dated 18 May 2023 through electronic mail denying ownership on the subject shipment and voluntarily abandoning the same.

Thus, we resolve.

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

Industrial Estate V, M.A. Roxas Highway, Clark Freeport Zone, Pampanga
(045) 499-0831- (045) 499-0828 | www.customs.gov.ph | clark@customs.gov.ph

ISSUE:

Whether or not the subject shipment may be forfeited in favor of the government.

DISCUSSION:

Clearly, there is no issue at all in ordering the forfeiture of the shipment said to contain "LOCAL MADE SLINGBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE HANDBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE TOWEL (MADE OF COTTON)" but found to contain 4 pcs. Dior Rimowa Sling Bag, 4 pcs. LV Bags, 2 pcs. LV Wallets, 10 pcs. LV Blankets, 2 pcs. Chanel Footwear, 2 pcs. Chanel Bags and 5 pcs. Chanel Blanket subject of this case. Records revealed that claimant, through his *Posisyong Papel* dated 18 May 2023 stating among others, and we quote:

"xxx 6. Dahil sa mga naunang katotohanan, mariin kong itinatangi na ang mga kargamento na binanggit sa itaas ay hindi akin at akin itong inaabandona. x x x"

Such express relinquishment of right over the goods will not offend the time-honored principle and constitutionally guaranteed "due process principle" since the claimant was given ample time to present the case.

In the case of **Ledesma vs. Court of Appeals (G.R. No. 166780, December 27, 2007, 541 SCRA357)**, the Supreme Court had the occasion to rule that:

"The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of xxx"

In the case at hand, claimant was undeniably given the opportunity to elaborate her claim, discuss and present supporting evidence to prove the same. However, instead of claiming the same and under the pain of being repetitive, claimant just submitted a *Posisyong Papel*, denying ownership on the subject shipment and voluntarily abandoning the same.

Furthermore, the subject shipment contains infringing goods, as evidenced by the notarized Certifications issued by Atty. Baranda confirming the examined samples to be counterfeit and that the said exporter's name is not included as authorized channel of the Company. As such, the same are considered prohibited goods subject to seizure and forfeiture under Sections 118 (f) and 1113 (f) of the CMTA, to wit:

SEC. 118. *Prohibited Importation and Exportation.* — The importation and exportation of the following goods are prohibited:

xxx

(f) Infringing goods as defined under the Intellectual Property Code and related laws; and

SEC. 1113. *Property Subject to Seizure and Forfeiture.* — Property that shall be subject to seizure and forfeiture include:

xxx

(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

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that **shipment said to contain "LOCAL MADE SLINGBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE HANDBAG (MADE OF FABRIC AND CLOTH), LOCAL MADE TOWEL (MADE OF COTTON)"** bound to Leominster, Massachusetts, USA which will be shipped thru Federal Express (FedEx) Clark on 03 May 2022 under House Airway Bill No. 776750029603 but found to contain **4 pcs. Dior Rimowa Sling Bag, 4 pcs. LV Bags, 2 pcs. LV Wallets, 10 pcs. LV Blankets, 2 pcs. Chanel Footwear, 2 pcs. Chanel Bags and 5 pcs. Chanel Blanket**, 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 to all parties and offices for their information.

SO ORDERED.

Port of Clark International Airport, Clark Freeport Zone, Pampanga,


ATTY. ERASTUS SANDINO B. AUSTRIA, CESO V
District Collector, Port of Clark

Copy furnished:

1. Owner/Consignee/Shipper
2. Unit/Office in Custody of the Goods
3. Chief, ACDD

