



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

A modernized and credible customs administration that upholds good governance and is among the world's best

Republic of the Philippines,

Seizure Identification
No. CFZ **191-2023**

-versus-

Shipment said to contain **“ASSORTED WINDBRAKER WINTER JACKETS FOR DAILY USE, ASSORTED KNITTED DRESSES, ASSORTED COTTON PANTS AND TOPS TERNO FOR LADIES (MADE IN TAYTAY FASHION)”** bound to Ontario, California, USA which will be shipped thru Federal Express (FedEx) Clark on 11 April 2023 under House Airway Bill No. 771808462942 but found to contain **various bags (8 pcs. LV, 1 pc. Gucci, 2 pcs Hermes)**

Exporter/Shipper:

MJ ANTONIO

Lot 2, Blk 4, Veraville, Homes 2 Parañaque 1700
PH

Claimant.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Section 1113 (f) and (l) (3 & 4) of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

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

On 11 April 2023, a shipment bound to Ontario, California, USA (Consignee: Ludy De Villa) under House Airway Bill No. 771808462942 said to contain **“ASSORTED WINDBRAKER WINTER JACKETS FOR DAILY USE, ASSORTED KNITTED DRESSES, ASSORTED COTTON PANTS AND TOPS TERNO FOR LADIES (MADE IN TAYTAY FASHION)”** under the name of MJ ANTONIO with address at Lot 2, Blk 4, Veraville, Homes 2 Parañaque PH 1700 arrived at the Federal Express (FedEx) gateway facility and marked for verification/physical examination by the X-ray Inspector on duty.

On 20 April 2023, Trade Control Examiner Julius Ceasar Asuncion conducted physical examination on the subject shipment in the presence of representative from FedEx with the following findings:

AS DECLARED IN THE INVOICE	AS FOUND
<ul style="list-style-type: none"> 9 pcs. Assorted windbraker winter Jackets for daily use 12 pcs. Assorted Knitted Dress 	<ul style="list-style-type: none"> Various bags (8 pcs. LV, 1 pc. Gucci, 2 pcs Hermes)



<ul style="list-style-type: none"> • 12 pcs. Assorted Cotton Pants and Tops terno for Ladies (Made in Taytay Fashion) 	
<p>Value: USD 143.00 Gross Weight: 13.5 kgs.</p>	

Based on the abovementioned 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 Asuncion, thru Atty. Lilibeth Sandag, Deputy Collector for Operations, submitted a Memorandum dated 05 May 2023 recommending the issuance of a WSD against the subject shipment for violation of Section 1113 (l) (3) and (4) of the CMTA.

On 08 May 2023, a WSD docketed as Seizure Identification (S.I.) No. CFZ 191-2023 was issued by then Officer-In-Charge of this Port, Collector John Simon, against the subject shipment.

Thereafter, hearings were scheduled on 05 and 06 June 2023, however, no representative from claimant (exporter/shipper) appeared on the appointed date of the hearing.

In a Memorandum dated 25 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. Diodon John Arreglo, staff of the claimant.

Thus, we resolve.

ISSUE:

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

DISCUSSION:

The failure of the claimant to register claims in this proceeding and eventually submit documentary and/or testimonial evidence to support such claim is equivalent to a waiver of right. Such waiver 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 present case at hand, the claimant was undeniably given a day and the opportunity to elaborate claim, discuss and present supporting evidence to prove the same. Records show that the WSD and Notice of Hearing were duly served and received as stated in the Memorandum dated 25 May 2023 from SA I Fitzgerald T. Borja, noted by SP/Capt. Arnel A. Baylosis, District Commander, this Port, to wit:

*“2. At around 01:00PM on May 24, 2023, the above-signed, located the address at Lot 2, Blk 4, Veraville Homes 2 Parañaque 1700 PH. The said **Notice of Hearing and WSD***



was received by Mr. Diodon John Arreglo (Staff of the consignee).

3. Respectfully returning the **SERVED** copy of the **Notice of Hearing and Warrant of Seizure and Detention (WSD) SI No. CFZ 191-2023.**”

Thus, this Office considers the non-appearance of the claimant a waiver of right to present the case.

Moreover, Section 1121 of the CMTA and Section 9.4 of the same CAO provides that “If, within fifteen (15) days calendar days after service of warrant and due notice, no owner or agent can be found or appears before the District Collector, the seized goods shall be forfeited *ipso facto* in favor of the government to be disposed of in accordance with the CMTA.”

In this case, since no claimant appeared despite due notice and service of warrant, the seized goods should be forfeited *ipso facto* in favor of the government and disposed of in accordance with the law.

Furthermore, the subject shipment was declared in the commercial invoice as “ASSORTED WINDBRAKER WINTER JACKETS FOR DAILY USE, ASSORTED KNITTED DRESSES, ASSORTED COTTON PANTS AND TOPS TERNO FOR LADIES (MADE IN TAYTAY FASHION)” contrary to the findings of Trade Control Examiner Asuncion that the same contained **various bags (8 pcs. LV, 1 pc. Gucci, 2 pcs Hermes)**. As such, the same are considered goods subject to seizure and forfeiture under Section 1113 (f) and (l) (3 & 4) of the CMTA, to wit:

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

(l) Goods sought to be imported or exported:

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such goods;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or



XXX

All told, this Office finds it proper to forfeit the subject shipment for violation of Section 1113 (f) and (l) (3 & 4) of the CMTA.

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that **shipment said to contain "ASSORTED WINDBRAKER WINTER JACKETS FOR DAILY USE, ASSORTED KNITTED DRESSES, ASSORTED COTTON PANTS AND TOPS TERNO FOR LADIES (MADE IN TAYTAY FASHION)"** bound to Ontario, California, USA which will be shipped thru Federal Express (FedEx) Clark on 11 April 2023 under House Airway Bill No. 771808462942 but found to contain various bags (8 pcs. LV, 1 pc. Gucci, 2 pcs Hermes), 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



BOC-CRK-23-00437

