



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

Republic of the Philippines,

Seizure Identification

No. CFZ **212-2023**

-versus-

Shipment said to contain **“SHORT COTTON, CARDIGAN FABRIC, HIGH WAIST JEANS, LOOSE TSHIRT COTTON, SLACKS SILK, SLEEVELESS TSHIRT COTTON”** bound to Carol Stream, Illinois, USA which will be shipped thru Federal Express (FedEx) Clark on 18 April 2023 under House Airway Bill No. 771879490728 but found to contain **various shirts (6 pcs. Unbranded, 14 pcs. Burberry, 16 pcs. Ami, 16 pcs. Dior), 6 pcs. Ami and 16 pcs. Essential caps, 5 pcs. Toasted pastillas and 16 pcs. Tiffany & Co accessories**

Exporter/Shipper:

GILBERT SANTOS

Valenzuela City 1440 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 18 April 2023, a shipment bound to Carol Stream, Illinois, USA (Consignee: Joben Villamayor) under House Airway Bill No. 771879490728 said to contain **“SHORT COTTON, CARDIGAN FABRIC, HIGH WAIST JEANS, LOOSE TSHIRT COTTON, SLACKS SILK, SLEEVELESS TSHIRT COTTON”** under the name of GILBERT SANTOS with address at Valenzuela City 1440 PH arrived at the Federal Express (FedEx) gateway facility and marked for verification/physical examination by the X-ray Inspector on duty.

On 22 April 2023, Trade Control Examiner Marife Foloso 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"> • 8 SHORT COTTON • 7 CARDIGAN FABRIC • 5 HIGH WAIST JEANS • 8 LOOSE TSHIRT COTTON • 5 SLACKS SILK • 5 SLEEVELESS TSHIRT COTTON 	<ul style="list-style-type: none"> • Various shirts (6 pcs. Unbranded, 14 pcs. Burberry, 16 pcs. Ami, 16 pcs. Dior) • 6 pcs. Ami cap • 16 pcs. Essential cap • 5 pcs. Toasted pastillas • 16 pcs. Tiffany & Co accessories
<p>Value: USD 154.00 Gross Weight: 21 kgs.</p>	

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Industrial Estate V, M.A. Roxas Highway, Clark Freeport Zone, Pampanga

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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 Foloso, thru Atty. Lilibeth Sandag, Deputy Collector for Operations, submitted a Memorandum dated 10 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 17 May 2023, a WSD docketed as Seizure Identification (S.I.) No. CFZ 212-2023 was issued by then District Collector of this Port, Atty. Elvira Cruz, against the subject shipment.

Thereafter, hearings were scheduled on 19 and 20 June 2023, however, no representative from claimant (exporter/shipper) appeared on the appointed date of the hearing.

In a Disposition Form dated 04 October 2023 from SP/Capt. Arnel Baylosis, District Commander, this Port, it is stated that the WSD and Notice of Hearing were not served because the exporter/shipper and address are fictitious/insufficient.

Thus, we resolve.

ISSUE:

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

DISCUSSION:

In quasi-judicial proceedings, procedural rules governing service of notices/summons are not strictly construed. Substantial compliance thereof is sufficient. The constitutional requirement of due process with respect to service of summons only exacts that the service of summons be such as may reasonably be expected to give the notice desired.

In the case at hand, records show that serving of the WSD and Notice of Hearing was unsuccessful considering that the exporter/shipper and address are fictitious/insufficient. Hence, the same were posted at the FedEx, and BOC Bulletin Board and Official Website in compliance with Sections 6.5.2 and 10.13 of Customs Administrative Order (CAO) No. 10-2020, to wit:

6.5.2. x x x 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.

10.13. Notice of Hearing shall be served by personal service or, if not practicable by reason of distance and lack of personnel to effect personal service, by private courier service; or posting in the bulletin board of the Law Division or equivalent office of the concerned Collection District for unknown claimants, with insufficient address or foreign claimants. x x x

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 “**SHORT COTTON, CARDIGAN FABRIC, HIGH WAIST JEANS, LOOSE TSHIRT COTTON, SLACKS SILK, SLEEVELESS TSHIRT COTTON**” contrary to the findings of Trade Control Examiner Foloso that the same contained **various shirts (6 pcs. Unbranded, 14 pcs. Burberry, 16 pcs. Ami, 16 pcs. Dior), 6 pcs. Ami and 16 pcs. Essential caps, 5 pcs. Toasted pastillas and 16 pcs. Tiffany & Co accessories.** 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 “SHORT COTTON, CARDIGAN FABRIC, HIGH WAIST JEANS, LOOSE TSHIRT COTTON, SLACKS SILK, SLEEVELESS TSHIRT COTTON” bound to Carol Stream, Illinois, USA which will be shipped thru**

Federal Express (FedEx) Clark on 18 April 2023 under House Airway Bill No. 771879490728 but found to contain various shirts (6 pcs. Unbranded, 14 pcs. Burberry, 16 pcs. Ami, 16 pcs. Dior), 6 pcs. Ami and 16 pcs. Essential caps, 5 pcs. Toasted pastillas and 16 pcs. Tiffany & Co accessories, 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

