



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 **248-2023**

-versus-

Shipment said to contain **“BLEACHING WHIPPED SCRUB, BLEACHING WHIPPED CREAM, BLEACHING WHIPPED SOAP, INTENSIVE WHITENING DEO SPRAY”** bound to Henderson, Nevada, USA which will be shipped thru Federal Express (FedEx) Clark on 24 February 2023 under House Airway Bill No. 771394947257 but found to contain **3 boxes of Gluta 2500 GS (18 pairs) and 1 box of Gluta 5 GS (6 pairs)**

Exporter/Shipper:
GABBI MARIANO
542 Boni Ave., Brgy. Plainview, Mandaluyong
City 1550 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 24 February 2023, a shipment bound to Henderson, Nevada, USA (Consignee: Aileen M. Bautista) under House Airway Bill No. 771394947257 said to contain **“BLEACHING WHIPPED SCRUB, BLEACHING WHIPPED CREAM, BLEACHING WHIPPED SOAP, INTENSIVE WHITENING DEO SPRAY”** under the name of GABBI MARIANO with address at 542 Boni Ave., Brgy. Plainview, Mandaluyong City 1550 PH arrived at the Federal Express (FedEx) gateway facility and marked for verification/physical examination by the X-ray Inspector on duty.

On 27 February 2023, Trade Control Examiner Redeemer Moreno 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 pcs. Bleaching Whipped Scrub • 8 pcs. Bleaching Whipped Cream • 10 pcs. Bleaching Whipped Soap • 10 pcs. Intensive Whitening Deo Spray 	<ul style="list-style-type: none"> • 3 boxes of Gluta 2500 GS (18 pairs) • 1 box of Gluta 5 GS (6 pairs)
<p>Value: USD 65.00 Gross Weight: 5 kgs.</p>	



On 02 March 2023, the Office of the Export Unit submitted a Memorandum dated 27 February 2023, recommending the issuance of a Warrant of Seizure and Detention (WSD) against the subject shipment, to the then Deputy Collector for Operations which the latter received on 06 March 2023.

On 15 May 2023, Ms. Maricar Go, Officer-In-Charge (OIC) Export Unit received an instruction from the new Deputy Collector for Operations, Atty. Lilibeth S. Sandag, to check the status of the subject shipment attaching the unsigned original copy of the abovementioned Memorandum. Upon verification with FedEx, said shipment is still intact in the warehouse.

Based on the discrepancy between the goods found during the physical examination and goods declared in the commercial invoice, Ms. Go, OIC Export Unit, and Trade Control Examiner Moreno, thru Atty. Sandag, Deputy Collector for Operations, submitted a Memorandum dated 22 May 2023 recommending the issuance of a WSD against the subject shipment for violation of Section 1113 (I) (3) and (4) of the CMTA.

On 26 May 2023, a WSD docketed as Seizure Identification (S.I.) No. CFZ 248-2023 was issued by then District Collector of this Port, Atty. Elvira Cruz, against the subject shipment.

Thereafter, hearings were scheduled on 29 and 30 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 A. 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 “**BLEACHING WHIPPED SCRUB, BLEACHING WHIPPED CREAM, BLEACHING WHIPPED SOAP, INTENSIVE WHITENING DEO SPRAY**” contrary to the findings of Trade Control Examiner Moreno that the same contained **3 boxes of Gluta 2500 GS (18 pairs) and 1 box of Gluta 5 GS (6 pairs)**. 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 "BLEACHING WHIPPED SCRUB, BLEACHING WHIPPED CREAM, BLEACHING WHIPPED SOAP, INTENSIVE WHITENING DEO SPRAY"** bound to Henderson, Nevada, USA which will be shipped thru Federal Express (FedEx) Clark on 24 February 2023 under House Airway Bill No. 771394947257 but found to contain **3 boxes of Gluta 2500 GS (18 pairs) and 1 box of Gluta 5 GS (6 pairs)**, 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

