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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
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BOC-28-005515

MEMORANDUM

TO	:	**KARREN APRIL A. NOROÑIO-GABION** Officer-in-Charge Public Information and Assistance Division (PIAD)
THRU	:	**ATTY. MARIA YASMIN M. OBILLOS-MAPA** District Collector, BOC-NAIA
FROM	:	**ATTY. WALLY ANN D. YUMUL** Acting Chief, Law Division
SUBJECT	:	**PUBLICATION IN THE BOC WEBSITE OF THE ISSUED DECISION OF FORFEITURE**
DATE	:	**13 MARCH 2024**

This refers to the herein attached Decision of Forfeiture:

1. **SEIZURE IDENTIFICATION NO. 007-2024 (NAIA):** Ninety-Nine (99) Vials of Lactulose brought in by incoming passenger**, JIE CHEN** from China and held in custody under Held Baggage Receipt No. 00100004397; and
2. **SEIZURE IDENTIFICATION NO. 008-2024 (NAIA):** Nine-hundred fifty-one (951) bottles of various medicine and antibiotics by incoming passenger **IRA VANDER EDWARDS II** from USA.

As the aforementioned passengers/claimants have indicated insufficient addresses in the Philippines, the Decision of Forfeiture 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 requests that the copy of the Decision of Forfeiture on Seizure Identification Nos. 007-2024 (NAIA) and 008-2024 (NAIA), respectively, 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

-versus-

Ninety-Nine (99) Vials of Lactulose brought in by incoming passenger, **JIE CHEN** and held in custody under Held Baggage Receipt No. 00100004397

x----------x

SEIZURE IDENTIFICATION NO. 007-2024 (NAIA)

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described 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 03 October 2023, a female Chinese passenger named Jie Chen with Passport No. EK9422910, arrived at the Ninoy Aquino International Airport Terminal 1 on board Flight MU 211 from China.

2. The checked-in baggage of Jie Chen was marked the by X-Ray Inspection Project (XIP) Operator Bong Grajo due to suspicious images and was referred to Customs Examiner Melody D. Garcia for physical examination.

3. Before conducting the actual physical examination, Customs Examiner Melody D. Garcia asked for the accomplished Customs Baggage Declaration Form (CBDF) of Jie Chen. In the submitted CBDF, Customs Examiner Garcia noted that the passenger ticked "No" to all items pertaining to page 3 of the said form. Passenger Jie Chen was then asked if she had anything to declare to which she replied in the negative.

4. Subsequently, Customs Examiner Garcia conducted the physical examination of her checked-in baggage which yielded Ninety-Nine (99) Vials of Lactulose with a total estimated value of One hundred Eighteen US Dollars (USD 118.00).

5. Customs Examiner Garcia inquired if the latter had an Import Permit from the Food and Drug Administration (FDA) for the said items found in her baggage, to which the passenger also replied in the negative.

6. For failure to present the necessary Import permit/clearance, the subject articles were held in-bond for safekeeping and Held Baggage Receipt No. 00100004397 was issued. The subject items were turned over to Ms. Annaliza L. Reyes, In-Bond Unit, Baggage Assistance Division, this Port.

7. In a Memorandum dated 03 October 2023 addressed to the District Collector, Melody D. Garcia, Acting Customs Examiner and Gaylord Hilario C. Ventura, Flight Supervisor, thru Acting Deputy Collector for Passenger Service, Norsalem

Raymond M. Mama-o, submitted their Incident Report and recommended for the presentation of Food and Drug Administration Import Permit on the subject articles.

8. In a Memorandum dated 29 February 2024, Roberto A. Quintana, Chief of the Baggage Assistance Division, thru Norsalem Raymond M. Mama-o, Acting Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention against the subject articles for lack of Import Permit/Clearance.

DISCUSSION:

As culled from the records of the instant case, Passenger Jie Chen brought into the country Ninety-Nine (99) Vials of Lactulose 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, premises considered, the subject Ninety-Nine (99) Vials of Lactulose brought in by Passenger **JIE CHEN** are 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 to the Auction and Cargo Disposal Division (ACDD) for custody and safekeeping and for final disposition thereof pursuant to 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 in 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, 12 March 2024.

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

Wdy/law/ham

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
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REPUBLIC OF THE PHILIPPINES

-versus-

Nine Hundred Fifty-One (951) bottles of various medicines brought in by American passenger **IRA VANDER EDWARDS II** who arrived on 16 September 2023 from USA at NAIA Terminal 3

x----------x

SEIZURE IDENTIFICATION NO. 008-2024 (NAIA)

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above described Nine Hundred Fifty-One (951) bottles of various medicines brought in by American passenger Ira Vander Edwards II 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.

The antecedent facts of the instant case are as follows:

1. The above-described articles were brought in by passenger Ira Vander Edwards II with Passport No.655301826 who arrived at the Ninoy Aquino International Airport Terminal 3 on 16 September 2023 on board Flight No. QR934 from USA.

2. His checked-in baggage underwent non-intrusive inspection and was marked by XIP Officer Jayson Billante due to suspicious image, and consequently referred to Customs Examiner Edgardo P. Cabanillas Jr. for physical examination.

3. Before conducting physical examination, Examiner Cabanillas Jr. asked passenger to submit his filled-out Customs Baggage Declaration Form (CBDF). Examiner Cabanillas noted that passenger ticked "No" to all items in the General Declaration indicated in page 3 of the CBDF except for item No. 4. Passenger was asked if he had anything to declare to which he replied in the affirmative.

4. Thereafter examiner conducted physical examination on the subject baggage and yielded to the discovery of nine hundred fifty-one (951) bottles of various medicine and antibiotics with an estimated value of USD2,000.00 or approximately Php113,698.00.

5. For failure to present Permit/Clearance from the Food and Drug Administration (FDA), Held Baggage Receipt No. 00100004498 was issued to passenger Edwards II and the confiscated articles were turned-over to Shiela May Asis of the In-bond Unit, Baggage Assistance Division.

6. In a Memorandum dated 19 September 2023 for the District Collector, Customs Examiner Edgardo P. Cabanillas, Jr. and Flight Supervisor Reginaldo Z. Castaneda, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division,

Mark Jhon O. Almase, Ph. D., Assistant Deputy Collector for Passenger Service and Acting Deputy Collector for Passenger Service Norsalem Raymond M. Mama-o, submitted their Incident Report and recommended for the presentation of Permits/Certificates of Product Registration from Food and Drug Administration and payment of corresponding duties and taxes.

7. In a Memorandum dated 29 February 2024, Roberto A. Quintana, Chief, Baggage Assistance Division, thru Acting Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention (WSD) against the subject articles for lack of Import Permit/Clearance from the Food and Drug Administration (FDA) in violation of Republic Act 9711 or the Food and Drug Administration (FDA) Act of 2009.

DISCUSSION:

As culled from the records of the instant case, the subject Nine Hundred Fifty-One (951) bottles of various medicines brought in by passenger Ira Vander Edwards II 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 Nine Hundred Fifty-One (951) bottles of various medicines brought in by American passenger **IRA VANDER EDWARDS II** are 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 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 in 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, 12 March 2024.

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

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