



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 024-2024 (NAIA)

-versus-

Twenty-One (21) boxes of FANCL
Tense Up Collagen Supplements and
FANCL White Advance Drink brought
in by incoming passenger **SUQUN
JIANG** and held in custody under Held
Baggage Receipt No. 00100005905

X-----X

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) and Paragraph 9.3 of Customs Administrative Order No. 10-2020, 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 26 January 2024, a female Chinese passenger named Suqun Jiang with Passport No. EJ2066978, arrived at the Ninoy Aquino International Airport Terminal 3 on board Flight Z293 from China.
2. The checked-in baggage of Suqun Jiang was marked "X" by X-Ray Inspection Project (XIP) Operator Paul Lodea and was then referred to Customs Examiner Kimberly Sangalang for physical examination.
3. Before conducting the actual physical examination, Customs Examiner Kimberly Sangalang asked the passenger to submit her duly accomplished Customs Baggage Declaration Form (CBDF). In the submitted CBDF, Customs Examiner Garcia noted that the passenger did not tick all items pertaining to page 3 of the said form. Passenger Jiang was then asked if she had anything to declare to which she replied in the affirmative.
4. Customs Examiner subsequently conducted the physical examination of her checked-in baggage which yielded twenty-one (21) boxes of FANCL Collagen Supplements, fourteen (14) boxes of FANCL Tense up Collagen Drink and, seven (7) boxes of FANCL White Advance Drink with an estimated value of Four Hundred US Dollars (USD 400.00)
5. During the actual examination of her checked-in baggage, Customs Examiner asked the passenger if the latter secured an Import Permit from the Food and Drug Administration (FDA) for the said items found in her baggage, which she replied in the negative.
6. For failure to present the necessary Import permit/clearance, a Held Baggage Receipt No. 00100005905 was issued, and the subject items were turned over to Jonathan Mesa, In-Bond Unit, Baggage Assistance Division, for safekeeping.



7. In a Memorandum dated 05 March 2024 addressed to the District Collector, this Port, Customs Examiner Kimberly Sangalang and Acting Flight Supervisor Dianne Karen Caceres, thru Atty. Danilo M. Campos Jr., Chief, Arrival Operations Division and 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 25 March 2024 addressed to Atty. Wally Ann D. Yumul, Acting Chief, Law Division, Ritzton M. Mamisay, Officer-In-Charge, Baggage Assistance Division thru Acting Deputy Collector for Passenger Service Norsalem Raymond M. Mama-o, 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, Chinese passenger Suqun Jiang brought into the country twenty-one (21) boxes of FANCL Tense Up Collagen Supplements and FANCL White Advance Drink 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:

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(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 Twenty-One (21) boxes of FANCL Tense Up Collagen Supplements and FANCL White Advance Drink brought in by Passenger **SUQUN JIANG** 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 the same 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, 08 APR 2024 April 2024.

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

Wdy/law/ham

