REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION NO. 033-2024 (NAIA)

-versus-

Twenty-Five (25) Packs, One Hundred Five Point Five (105.5) Mats, and Eighty-Five (85) Tablets of Various Medicines consisting of Antibiotics, Over-the-Counter Cough and Flu Medicines and Supplements brought in by passenger **MANH THU NGUYEN** who arrived on 11 January 2024, which are held in bond under Held Baggage Receipt No 00100005815.

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DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described shipment for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), in relation to Article I (Licensing of Establishments and Registration of Health Products), Book II of the Department of Health Department Circular No. 2011-0101 (The Rules and Regulations Implementing Republic Act No. 9711 - The Food and Drug Administration Act of 2009).

A cursory review of the entire records of the instant seizure and forfeiture case reveals the following antecedents, to wit:

1. On 11 January 2024, Manh Thu Nguyen, a Vietnamese National and holder of Vietnam Passport Number P02823934 arrived at NAIA Terminal 3 on board 5J 745 from Vietnam, the hand-carried baggage of Passenger Nguyen underwent a non-intrusive inspection by X-ray Inspection Project (XIP) Personnel Joshua Zurbito and was referred to Customs Examiner Pia DG. Reyes for physical examination.

2. Before conducting the physical examination, Customs Examiner Pia DG. Reyes asked the passenger to submit his filled-out Customs Baggage Declaration Form (CBDF). However, due to language barrier, the passenger was unable to complete the CBDF, but was able to verbally declare that his bag contained "medicine". Customs Examiner Pia DG. Reyes proceeded with the physical examination to identify the actual "medicine" brought in by the passenger.

3. Upon physical examination, Custom Examiner Pia DG. Reyes discovered the following medicines, consisting of: 25 Flu Packs (consisting of Amoxicillin, Dextromethorphan, Betamethasone and Paracetamol), 7 Mats of Paracetamol, 1.5 Mats of Ciprofloxacin, 3 Mats of Miclacol Blue, 4 Mats of Pharmax, 3 Mats of Cefuroxim, 15 Tablets of Trimeseptol, 28 Mats of Betamethasone, 6 Mats of Prokami Tab, 7 Mats of Hagizin Flunarizin, 6 Mats of Methorpan, 12 Mats of Penicillin, 70 Tablets of Betaserc, 10 Mats of Atocib 120, 4 Mats of Fran Neuromin, 7 Mats of Acetyl Leucine, 4 Mats of Neni 800, and 3 Mats of Methyl Prednisolon.

4. The examined item was subsequently held due to the lack of import permit from the Food and Drug Administration (FDA) and subject to presentation of proof of payment for value verification. Held Baggage Receipt was issued to the passenger with HBR No. 00100005815, and the item was turned over to Jonathan Mesa of the In-Bond Unit, Baggage Assistance Division for safekeeping.

5. In a Memorandum dated 12 January 2024, Customs Examiner Pia DG. Reyes and Flight Supervisor Belinda C. Copioso, thru. Atty. Danilo M. Campos Jr., Chief, Arrival

Operations Division, Mark Jhon O. Almase, Ph.D., Asst. Deputy Collector for Passenger Service, and Mr. Norsalem Raymond M. Mama-o, Acting Deputy Collector for Passenger Service, reported their findings to the District Collector, this Port, and recommended the presentation of corresponding import permit from the Food and Drug Administration (FDA) and payment of the duties and taxes, if any, prior clearance, and release.

6. In a Memorandum dated 25 March 2024, Mr. Ritzton Ryan M. Mamisay, Officer-In-Charge, Baggage Assistance Division, thru Mr. Norsalem Raymond M. Mama-o, Acting Deputy Collector for Passenger Service, recommended to the Chief, Law Division, this Port, for the issuance of Warrant of Seizure and Detention against the twenty-five (25) packs, one hundred five point five (105.5) mats, and eighty-five (85) tablets of various medicines consisting antibiotics, over-the-counter cough and flu medicines and supplements for lack of FDA Import Clearance in violation of Republic Act No. 9711 otherwise known as the Food and Drug Administration (FDA) Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger Manh Thu Nguyen brought into the country the subject twenty-five (25) packs, one hundred five point five (105.5) mats, and eighty-five (85) tablets of various medicines consisting antibiotics, over-the-counter cough and flu medicines and supplements 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:
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> "SEC. 11. **The following acts and the causing thereof are hereby prohibited:**
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> xxx
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> (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."
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> **"Section 118. Prohibited Importation and Exportation.**- The importation and exportation of the following goods are prohibited:
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> (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, Twenty Five (25) Packs, One Hundred Five Point Five (105.5) Mats, and Eighty Five (85) Tablets of Various Medicines consisting Antibiotics, Over-the-Counter Cough and Flu Medicines and Supplements brought in by **MANH THU NGUYEN** 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 regulatory agency 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, 11 APR 2024 April 2024.

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

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