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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
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BOC-28-005874

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. EMILIO Y. LEGASPI IV** OIC, Law Division
SUBJECT	:	**PUBLICATION IN THE BOC WEBSITE OF THE ISSUED DECISION AND WARRANT OF SEIZURE AND DETENTION (WSD)**
DATE	:	**30 JULY 2024**

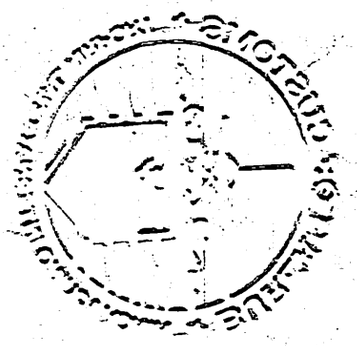
This refers to the herein attached Decision of Forfeiture:

1. **SEIZURE IDENTIFICATION NO. 128-2024 (NAIA) :** Republic of the Philippines vs. Eighty-four (84) bottles of Designer Collection R Series Hand and Body Lotion brought in by passenger **ABCDE TOLIN**, under Held Baggage Receipt No. 00100006759;

2. **SEIZURE IDENTIFICATION NO. 129-2024 (NAIA):** Republic of the Philippines vs. Sixty-four (64)kilograms of Assorted Medicines brought in by Korean Traveler **YEON JUN JEONG** under Held Baggage Receipt No. 00100006164;

3. **SEIZURE IDENTIFICATION NO. 130-2024 (NAIA):** Republic of the Philippines vs. One (1) Box containing: 60 pcs. Thai Herbel Wax (big); 80 pcs. Thai Herbal Wax (small); 36 bottles Peppermint Cure; 10 pcs. Counterpain Analgesic Blam (small); 10 pcs. Counterpain Analgesic Blam (big); 2 bottles Tiger Ointment; 15 cans Run Hou Tang; 16 boxes Gloden Throut Lozenges small; 20 boxes Uahom Powder Fine Ragodas brand; and 24 boxes Woodlock Medicated Balm brought in by **JIQIANG SHI** under Held Baggage Receipt No. 00100005095;

4. **SEIZURE IDENTIFICATION NO. 133-2024 (NAIA):** Republic of the Philippines vs. Two (2) boxes Assorted Medicines consisting of 600 bottles of Azithromycin tablets 500mg; 192 bottles of Losartan Potassium tablets 100mg; 86 bottles of Losartan Potassium tablets 50mg; 120 bottles of Amplodipine Besylate tablets 10mg; 48 bottles of Hydrochlorothuazide tablets 25mg; 48 bottles of Fenofibrate Nanocrystallized tablets 48mg; 144 bottles of Furosemide tablets 48mg; 108 bottles of Levothyroxine Sodium tablets 200mg, brought in by **GINO HERMANO ANG** on 29 January 2024 and held in custody at the Baggage Assistance Division under Held Baggage Receipt No. 00100006153; and



5. **SEIZURE IDENTIFICATION NO. 134-2024 (NAIA) :** Republic of the Philippines vs. Seventy-two (72) boxes of Vitamins for Kids, brought in by passenger **KIM JUNG HWAN**, under Held Baggage Receipt No. 00100003352.

As the aforementioned passengers/claimants have indicated insufficient addresses in the Philippines, the WSDs 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 WSD on **Seizure Identification Nos. 128-2024 (NAIA), 129-2024 (NAIA), 130-2024 (NAIA), 133-2024 (NAIA), and 134-2024,** 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-

Eighty-four (84) bottles of Designer Collection R Series Hand and Body Lotion brought in by passenger **ABCDE TOLIN,** under Held Baggage Receipt No. 0010006759.
x----------x

SEIZURE IDENTIFICATION NO. 128-2024 **(NAIA)**

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described articles brought into the Philippines on 17 March 2024 by Mr. Abcde Tolin, a Filipino, for violation of Section 118 (g) and Paragraph (f) of Section 1113 (Property Subject to Seizure and Forfeiture) 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 Section 1 of Article I, Book II of the Rules and Regulations Implementing Republic Act No. 9711-The Food and Drug Administration Act of 2009.

Records of the instant seizure case show the following facts and circumstances, to wit:

1. The eighty-four (84) bottles of Designer Collection R series Hand and Body Lotion were brought into the country by incoming passenger Abcde Tolin, Filipino and holder of Passport No. P5371547C who arrived at NAIA Terminal 3 on 17 March 2024 on board Cebu Air Flight 5J311 from Taiwan.

2. Passenger Tolin's check-in baggage underwent x-ray inspection and was marked "X" by the XIP Inspector on duty. Thereafter, his baggage was referred to the Customs Examiner on duty for physical examination.

3. Before conducting an actual physical examination of the check-in baggage of Mr. Tolin, Customs Examiner Jeinalem G. Go requested the passenger to submit his Customs Baggage Declaration Form (CBDF), wherein she noted that passenger Tolin answered "NO" to all the items in page 3 of the General Declaration.

4. Customs Examiner Go conducted an actual examination of the said check-in baggage of passenger Tolin where she found inside the eighty-four (84) bottles of Designer Collection R Series Hand and Body Lotion. When asked if he had an Import Permit or Clearance for these products, passenger Tolin failed to present the same. The examiner issued Held Baggage Receipt No. 00100006759 to passenger Tolin and turned over the seized hand and body lotion to the In-Bond Section, Baggage Assistance Division, this Port, for custody and safekeeping.

5. In a Memorandum for the District Collector dated 30 May 2024, Customs Examiner Jeinalem G. Go, Flight Supervisor Roger P. Agias, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, Mr. Mark Jhon O. Almase, Assistant Deputy Collector for Passenger Service, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported the

incident and recommended that the eighty four (84) bottles of Hand and Body Lotions be held from release while waiting for the FDA Import Permit/Clearance and payment of the assessed customs duty and tax.

6. However, up to this time, passenger Tolin nor his duly authorized representative appeared at the Baggage Assistance Division to submit the required FDA Import Clearance and pay the customs duty and tax assessed thereon, if any and recommended for the issuance of Warrant of Seizure and Detention.

DISCUSSION:

As culled from the records of the instant case, passenger **ABCDE TOLIN** brought into the country the subject Eighty-four (84) bottles of Designer Collection R Series Hand and Body Lotion 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:
>
> (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 substances 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."** (Emphasis ours)

Relatively, Article 1 (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 (FDA) Act of 2009 states:

> "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, importation, exportation, 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.** (Emphasis ours)

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:

x x x

(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 goods brought by passenger to **ABCDE TOLIN** is 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 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.

JUL 2 9 2024

BOC-NAIA, Pasay City, _____ July 2024.

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

Law/wady/eyll/V

REPUBLIC OF THE PHILIPPINES

-versus-

Sixty-four (64) kilograms of Assorted Medicines brought in by Korean traveler **YEON JUN JEONG** under Held Baggage Receipt No. 00100006164.

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

SEIZURE IDENTIFICATION NO. 129-2024 **(NAIA)**

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above described Sixty four (64) kilograms of Assorted Medicines 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 Food and Drug Administration Act of 2009.

Culled from the records of the instant seizure case are the antecedent facts, to wit:

1. The above-described articles were brought into the country by incoming passenger Yeong Jun Jeong, a Korean traveler and holder of Passport No. M60635670 who arrived at NAIA Terminal 1 on January 30, 2024, on board Philippine Airlines Flight PR 467 from Korea.

2. Passenger Jeong's check-in baggage underwent the non-intrusive x-ray inspection and was marked "X" by the XIP Inspector on duty. Thereafter, his baggage was referred to the Customs Examiner on duty for physical examination.

3. Before conducting an actual physical examination of the check-in baggage of Mr. Jeong, Customs Examiner Shenandoah S. Capili requested the passenger to submit his Customs Baggage Declaration Form (CBDF), wherein she noted that passenger Jeong answered "NO" to all the items in the General Declaration except Item No. 4 which refers to "Cosmetics, skin-care products, food supplements and **medicines** x x x".

4. Customs Examiner Capili conducted an actual examination of the check-in baggage of passenger Jeong where she found inside the sixty four (64) kilograms of assorted medicines, in excess of the quantity which is allowed for personal consumption. Moreover, passenger Jeong failed to present the Import Permit/Clearance from the Food and Drug Administration (FDA) for the said medicines.

5. Customs Examiner Capili withheld the release of the subject medicines and issued Held Baggage Receipt No. 00100006164 to passenger Jeon and turned over the same to the In-Bond Section, Baggage Assistance Division, this Port, for custody and safekeeping.

6. In a Memorandum for the District Collector dated 03 June 2024, Customs Examiner Shenandoah Capili, Flight Supervisor Annalyn V. Reyes, with concurrence of Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, Mr. Mark Jhon O. Almase, Assistant Deputy Collector for Passenger Service, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported the incident and recommended for the issuance of Warrant of Seizure and Detention against the subject goods for lack of FDA Import Clearance in violation of Republic Act No. 9711 or the Food and Drug Administration Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger **YEON JUN JEONG** brought into the country the subject sixty-four (64) kilograms of Assorted Medicines 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:
>
> (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 substances 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."** (Emphasis ours)

Relatively, Article 1 (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 (FDA) Act of 2009 states:

> "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, importation, exportation, 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.** (Emphasis ours)

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:

x x x

(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 goods brought by passenger to **YEON JUN JEONG** is 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 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.

JUL 2 9 2024

BOC-NAIA, Pasay City, _____ July 2024.

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

Law/wady/eyIIV

REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION NO. 130-2024 (NAIA)

-versus-

One (1) Box containing:

60	pieces	Thai Herbal Wax (big)
80	pieces	Thai Herbal Wax (small)
36	bottles	Peppermint Cure
10	pieces	Counterpain Analgesic Balm (small)
10	pieces	Counterpain Analgesic Balm (big)
2	bottles	Tiger Ointment
15	cans	Run Hou Tang
16	boxes	Golden Throat Lozenges small
20	boxes	Uahom Powder Fine Ragodas brand
24	boxes	Woodlock Medicated Balm

brought in by **JIQIANG SHI** under Held Baggage Receipt No. 01005095.

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

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described medicaments for violation of Section 118 (g) and Paragraph (f) of Section 1113 (Property Subject to Seizure and Forfeiture) 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 Section 1 of Article I, Book II of the Rules and Regulations Implementing Republic Act No. 9711-The Food and Drug Administration Act of 2009.

A perusal of the records of the instant seizure case indicates the following facts and circumstances, viz:

1. The above-described medicaments were brought into the country by passenger Jiqiang Shi, a Chinese traveler and holder of Passport No. E56505948 who arrived at NAIA Terminal 1 on 25 October 2023 on board Philippine Airlines Flight PR 737 from Thailand.

2. His handcarried luggage underwent the non-intrusive examination and the XIP Inspector on duty referred him to Customs Examiner Ariane Krisette M. Andaya for physical examination and verification of its contents.

3. Before conducting an actual physical examination of the handcarry luggage of Mr. Shi, Customs Examiner Andaya requested the latter to submit his Customs Baggage Declaration Form (CBDF), After going over the same, she noted that the passenger answered "NO" to all the items in the General Declaration except Item No. 4 which refers to "Cosmetics, skin-care products, food supplements and **medicines** x x x". Customs Examiner Andaya likewise

asked Mr. Shi to provide more information about the articles found inside his luggage, but because of the language barrier, Mr. Shi failed to provide the details.

4. In the presence of Mr. Shi, Customs Examiner Andaya conducted an actual examination of his handcarry luggage wherein she found inside all the above-described medicaments in commercial quantity. Thereafter, she asked Mr. Shi if he had a permit to bring into the country the said medicaments, and the latter admitted that he is not aware of such requirement and nor possessed the Import Permit/Clearance from the Food and Drug Administration (FDA) for the said articles.

5. For failure to present the Import Permit or Authorization from the FDA, Customs Examiner Andaya withheld the release of the subject medicaments and issued Held Baggage Receipt No. 00100005095 to passenger Shi and turned over the same to the In-Bond Section, Baggage Assistance Division, this Port, for custody and safekeeping.

6. In a Memorandum for the District Collector dated 25 March 2024, Customs Examiner Ariane Krisette M. Andaya, Flight Supervisor Manuel J. Mendoza, with concurrence of Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, Mr. Mark Jhon O. Almase, Assistant Deputy Collector for Passenger Service, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, recommended that the assorted medicaments be held from release while waiting for passenger Shi to submit the required FDA Import Permit/Clearance and payment of the assessed customs duty and tax, if any.

7. However, Mr. Shi nor his duly authorized representative failed to appear at the Baggage Assistance Division to submit the Import Permit from the FDA in order to release the said medicines after payment of the customs duty and tax to be imposed thereon.

8. For failure to comply with the foregoing requirements, the subject medicaments are recommended to be forfeited for violation of Section 117 (Regulated Importation and Exportation) and Paragraph (f) of Section 1113 (Property Subject to Seizure and Forfeiture) 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 Section 1 of Article I, Book II of the Rules and Regulations Implementing Republic Act No. 9711-The Food and Drug Administration Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger **JIQIANG SHI** brought into the country the subject goods 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:

(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 substances 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."** (Emphasis ours)

Relatively, Article 1 (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 (FDA) Act of 2009 states:

"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, importation, exportation, 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.** (Emphasis ours)

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:

x x x

(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 goods brought by passenger to **JIQIANG SHI** is 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 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, JUL 2 9 2024 July 2024.

ATTY. MARIA YASMIN M. OBIAS-MARA
District Collector, BOC-NAIA

Law/wady/eyIIV

REPUBLIC OF THE PHILIPPINES

-versus-

Two (2) boxes of Assorted Medicines consisting of: 600 bottles of Azithromycin tablets 500mg; 192 bottles of Losartan Potassium tablets 100mg; 86 bottles of Losartan Potassium tablets 50mg; 120 bottles of Amplodipine Besylate tablets 10mg; 48 bottles of Hydrochlorothuazide tablets 25mg; 48 bottles of Fenofibrate Nanocrystallized tablets 48mg; 144 bottles of Furosemide tablets 48mg; 108 bottles of Levothyroxine Sodium tablets 200mg, brought in by **GINO HERMANO ANG** on 29 January 2024 and held in custody at the Baggage Assistance Division under Held Baggage Receipt No. 00100006153.

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

SEIZURE IDENTIFICATION NO. 133-2024 (NAIA)

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above described Six (6) cartons of Cosmetic Products 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 perusal of the records of the instant case shows the following antecedents:

1. The above-described articles were brought into the country by incoming passenger Gino Hermano Ang, a Filipino and holder of Passport No. P8475529B, who arrived at NAIA Terminal 1 on 02 June 2022 on board Philippine Airlines Flight PR 127 from the United States of America (USA).

2. Before conducting an actual physical examination of the check-in baggage of Mr. Ang, Feljun M. Roxas, Customs Examiner, requested the passenger to submit his Customs Baggage Declaration Form (CBDF), wherein he noted that passenger Ang answered "NO" to all the items in the General Declaration except Item No. 4 which refers to "Cosmetics, skin-care products, food supplements and **medicines** x x x".

3. Customs Examiner Roxas conducted an actual examination of the check-in baggage of passenger Ang where he found inside the above-subject medicines in commercial quantity, in excess of the quantity which is allowed to a passenger for personal consumption. Passenger Wang failed to present the Import Permit/Clearance from the Food and Drug Administration (FDA).

4. Customs Examiner Roxas withheld the release of the subject medicines and issued Held Baggage Receipt No. 00100006153 to passenger Ang and turned over the same to the In-Bond Section, Baggage Assistance Division, this Port, for custody and safekeeping.

5. In a Memorandum for the District Collector dated 27 March 2024, Customs Examiner Feljun M. Roxas, Flight Supervisor Annalyn V. Reyes, with concurrence of Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported the incident and recommended that the assorted medicines be held from release while waiting for the FDA Import Permit/Clearance and payment of the assessed customs duty and tax.

6. However, up to this time, passenger Ang nor his duly authorized representative appeared at the Baggage Assistance Division to claim the medicines and pay the customs duty and tax imposed thereon.

7. Thus, on 28 May 2024, the Passenger Service recommended for the issuance of a Warrant of Seizure and Detention against the subject medicines for lack of FDA Import Clearance in violation of Republic Act No. 9711 or the Food and Drug Administration Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger **GINO HERMANO ANG** brought into the country the subject goods 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:
>
> (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 substances 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."** (Emphasis ours)

Relatively, Article 1 (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 (FDA) Act of 2009 states:

> "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, importation, exportation, 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.** (Emphasis ours)

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:
>
> x x x
>
> (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 goods brought by passenger to **GINO HERMANO ANG** is 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 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. JUL 29 2024

BOC-NAIA, Pasay City, _____ July 2024.

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

Law/wady/eyllV

REPUBLIC OF THE PHILIPPINES

-versus-

Seventy-two (72) boxes of Vitamins for Kids, brought in by passenger **KIM JUNG HWAN,** under Held Baggage Receipt No. 00100003352.

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

SEIZURE IDENTIFICATION NO. 134-2024 **(NAIA)**

DECISION

This resolves the seizure and forfeiture proceedings instituted against the seventy two (72) boxes of Vitamins for Kids brought in by passenger Kim Jung Hwan, a Korean traveler, for violation of Section 118 (g) and Paragraph (f) of Section 1113 (Property Subject to Seizure and Forfeiture) 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.

The antecedent facts of the instant case are as follows, viz:

1. On 17 July 2023 at NAIA Terminal 3, Kim Jung Hwan, a Korean passenger and holder of Passport No. M7HT5424, arrived on board fight OZ701 from Korea. His check-in baggage underwent the non-intrusive examination and was marked "X" by the XIP Inspector on duty thereat. Then he was referred to the Customs Examiner on duty for physical examination of his check-in baggage.

2. Before conducting an actual physical examination, Customs Examiner Shenandoah S. Capili asked passenger Hwan to submit his duly filled-out Customs Baggage Declaration Form (CBDF), wherein she noted that the said passenger ticked "NO" to all items pertaining to page 3 of the said form. Thereafter, Customs Examiner Capili conducted an actual physical examination of passenger Hwan's check-in baggage which yielded seventy two (72) boxes of Vitamins for Kids. The examined items were then held after the passenger failed to present the required Import Permit/Clearance from the Food and Drug Administration.

3. Held Baggage Receipt No. 0100003352 was issued by Customs Examiner Capili to passenger Hwan and the 72 boxes of Vitamins for Kids were turned over to the In Bond Section, Baggage Assistance Division, for custody and safekeeping.

4. In a Memorandum dated 05 June 2024, Customs Examiner Shenandoah S. Capili and Flight Supervisor Marilyn Edillor, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, Mark Jhon O. Almase, Ph.D., Assistant Deputy Collector for Passenger Service, and Norsalem Raymond M. Mamao, Deputy Collector for Passenger Service, this Port, reported their findings to the District Collector, this Port, and recommended the release of the commodity upon presentation of the necessary FDA Import Permit and payment of the customs duty and tax to be assessed thereon.

DISCUSSION:

As culled from the records of the instant case, passenger **KIM JUNG HWAN** brought into the country the subject Seventy-two (72) boxes of Vitamins for Kids, 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:
>
> (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 substances 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."** (Emphasis ours)

Relatively, Article 1 (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 (FDA) Act of 2009 states:

> "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, importation, exportation, 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.** (Emphasis ours)

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:
>
> x x x

(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:
>
> XXX 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;" (Underline for emphasis)

WHEREFORE, the subject goods brought in by passenger to **KIM JUNG HWAN** is 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 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, JUL 29 2024 July 2024.

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

Law/wady/eyIIV