



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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REPUBLIC OF THE PHILIPPINES

**PORT OF SURIGAO
SEIZURE IDENTIFICATION
CASE No. 001-2024**

-versus-

**4 BOXES DELTA CIGARETTES
(50 REAMS PER BOX); 13 BOXES
CANON CIGARETTES (50 REAMS
PER BOX)**

**JOSEPHINE ARGENTE RUAYA
BARANGAY 1, POBLACION
DAPA, SURIGAO DEL NORTE**

CLAIMANT/OWNER.

X-----X

NOTICE OF DECISION

You are hereby notified by these presents that the Acting District Collector, Port of Surigao, rendered a DECISION on August 20, 2024, in the above-entitled case, copy of which is hereto attached.

Port of Surigao, Philippines, August 20, 2024.

JONAH HERBERT P. DOLLANO
Acting District Collector





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JOSEPHINE ARGENTE RUAYA
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CLAIMANT/OWNER.

X-----x

DECISION

For resolution is the seizure proceedings case against the above-mentioned illicit cigarettes turned over by PNP DAPA MPS and PPA on April 29, 2024 to the Bureau of Customs Port of Surigao.

ANTECEDENT FACTS

As culled from the records of the case, the following are the undisputed facts:

On April 18, 2004, elements of PNP DPA – MPS received an information that illicit cigarettes were conveyed from Surigao City aboard M/V Pilar Tuna (domestic vessel).

Upon docking of the said vessel on the same date at PPA Dapa, an inspection was conducted by the PNP DAPA - MPS together with PPA personnel.

The owner/possessor Josephine Argente Ruaya, upon demand by the inspecting team, failed to present legal or commercial documents to prove the cigarettes are licit.

In a letter dated 18 April 2024, PPA Terminal Manager TMO-Siargao ask for guidance in the further handling or custody of the intercepted alleged smuggled 10 sacks of cigarettes which is in their custody.

Acting on the said request, a verbal instruction was issued by the Acting District Collector, Port of Surigao for ESS-Port of Surigao to immediately conduct investigation on the reported interception of alleged smuggled 10 sacks of cigarettes.





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In a memorandum dated 22 April 2024, ESS – Port of Surigao reported there were two (2) imported brands of cigarettes among the confiscated cigarettes subject of their investigation.

On April 29, 2024, custody on the imported cigarettes was turned over to ESS – Port of Surigao by PNP DPA – MPS and PPA Siargao.

The Acting District Collector of this Port, after finding of a probable cause on May 03, 2024 issued a Warrant of Seizure and Detention (WSD) against the turned-over confiscated alleged imported illicit cigarettes for violation of **Section 1113; par. (f)** of the CMTA.

On 28 May 2024, service of the WSD was implemented by SA II Clint G. Ecleo. A copy of the WSD was duly served to Josephine Argente Ruaya (hereinafter referred to as Claimant/Owner for brevity).

Preliminary conference hearing was set by the Law Division of this Port on 18 July 2024 and 01 August 2024 and on both occasions, despite due notice, Claimant/Owner failed to appear.

On the part of the government, Atty. Steven Dadulla entered his appearance as government prosecutor on August 01, 2024 and made an oral manifestation for the immediate resolution of the case due to failure of the Claimant/Owner or any interested parties to appear during the hearing despite due notice.

In an Order dated 01 August 2024, the government prosecutor was ordered to submit a Position Paper and thereafter the case is deemed submitted for decision.

The government prosecutor in a Position Paper dated 09 August 2024 prayed for the forfeiture of the goods subject of this case in favor of the government.

Thus, we rule in this wise:

Preliminarily, we agree with the manifestation of the government prosecutor in his Position Paper that Claimant/Owner despite due notice failed to appear before this Office during the scheduled hearing for this case on July 18, 2024 and August 1, 2024. This fact is sufficiently supported by evidence on record.

Perforce, this is deemed a waiver of rights on the part of the Claimant/Owner to present controverting evidence against the forfeiture of the seized goods.

Corollary thereto, in forfeiture proceedings, the burden of proof lies with the Claimant as explicitly provided for under Section 1123 of the CMTA which states:

“Section 1123. Burden of Proof in Forfeiture Proceedings. – In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden shall be borne by the claimant.”

Verily, in the absence of any controverting evidence, the seized goods subject of this forfeiture proceedings was acquired through fraudulent means in stark violation of Section 1113 of the CMTA in particular par. (f) thereof which reads:





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“Section 1113. Property Subject to Seizure and Forfeiture. – Property that shall be subjected 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.”

As succinctly observed by the government prosecutor:

“It bears stressing that when the PNP DAPA MPS boarded the subject vessel, Claimant Ruaya was caught in flagrante delicto in possession of the Cigarettes without proper documentation. She is thus presumed to have fraudulently brought into the country the Cigarettes without the appropriate authority by concealing the same in black plastic container bags knowing it to be contraband. Thus the Cigarettes must necessarily be forfeited in favor of the government.”

WHEREFORE, premises considered and by virtue of the authority vested in me by law, it is hereby ordered and decreed that the **4 BOXES DELTA CIGARETTES (50 REAMS PER BOX); 13 BOXES CANON CIGARETTES (50 REAMS PER BOX)** presently stored at the office building of Port of Surigao, be forfeited in favor of the government to be disposed of in a manner provided by law.

SO ORDERED.

Port of Surigao, Philippines, August 20, 2024.


JONAH HERBERT P. DOLLANO
Acting District Collector

