



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **13 July 2020** which reads as follows:*

“G.R. No. 247768 (Kingson International Trading Corporation v. Hon. Commissioner of Customs, Bureau of Customs and the District Collector of Customs, Port of Manila). – Considering the Petition for Review on *Certiorari*¹ filed under Rule 45 of the Rules of Court and the Comment respectively filed by the parties, the Court resolves to **DENY** the instant Petition for Review on *Certiorari*² for failure of Kingson International Trading Corporation (petitioner) to show that the Court of Tax Appeals (CTA) *En Banc* committed any reversible error in denying its Petition for Review.³

Petitioner argues in the main that the commercial invoice of petitioner complies with Section 1308 of the Tariff and Customs Code of the Philippines (TCCP) and that the other documents are found to be authentic. Further, forfeiture does not lie since petitioner did not misdeclare the shipment of 2,406 bundles of steel products as to its value and tariff classification. In fact, it merely restated the description of the steel products, its quantity, volume, weight and customs value found in the commercial and shipping documents entirely prepared and provided by its supplier/shipper/exporter Tranjin Mai Jia Hua Trade Co. Ltd. in China. Thus, petitioner, by doing so, could not be faulted with and be charged of willful, intentional, unlawful, felonious and fraudulent declaration of the subject steel products.⁴

The Court denies the petition.

¹ *Rollo* vol. 1, pp. 35-73.

² *Id.*

³ *Id.* at 102-120.

⁴ *Id.* at 88-91.

The Court finds that the issues raised by petitioner involve questions of fact as they deal with the truth or falsity of the parties' factual allegations in dispute. In effect, petitioner is asking the Court to review the evidence presented and their probative value.

However, the well-settled rule is that the Court is not a trier of facts.⁵ Specifically, the jurisdiction of the Court under Rule 45, Section 1 of the Rules of Court is limited only to errors of law.⁶

At any rate, the CTA *En Banc*, affirming the CTA Division, sufficiently established that petitioner misdeclared its shipment consisting of 2,406 bundles of steel products as to its value and tariff classification which warranted the shipment's forfeiture.

As provided under Section 2530⁷ of the TCCP, as amended, any article or item, the importation of which is effected on the strength of false declaration or affidavit, or false invoice or other documents executed by the owner, importer, exporter or consignee shall be forfeited in favor of the Government. Also, Section 2503⁸ of the TCCP provides

⁵ *Gatan v. Vinarao*, G.R. No. 205912, October 18, 2017, 842 SCRA 602, 609.

⁶ *Id.*

⁷ SEC. 2530. Property Subject to Forfeiture Under Tariff and Customs Laws. Any vehicle, vessel or aircraft, cargo, article and other objects shall, under the following conditions be subjected to forfeiture:

x x x.

1. Any article sought to be imported or exported

- (1) Without going through a customhouse, whether the act was consummated, frustrated or attempted;
- (2) By failure to mention to a customs official, articles found in the baggage of a person arriving from abroad;
- (3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;
- (4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and
- (5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government.

⁸ SEC. 2503. Undervaluation, Misclassification and Misdeclaration in Entry. - When the dutiable value of the imported articles shall be so declared and entered that the duties, based on the declaration of the importer on the face of the entry would be less by ten percent (10%) than importer's description on the face of the entry would less by ten percent (10%) than should be legally collected based on the tariff classification of when (the dutiable weight, measurement or quantity of imported articles is found upon examination to exceed by ten percent (10%) or more than the entered weight, measurement or quantity, a surcharge shall be collected from the importer in an amount of not less than the difference between the full duty and the estimated duty based upon the declaration of the importer, nor more than twice of such difference: *Provided, That an*

that: (1) any misdeclared or underdeclared imported articles/items found upon examination shall *ipso facto* be forfeited in favor of the Government; and (2) an undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, quantity or measurement shall constitute a *prima facie* evidence of fraud penalized under Section 2530 of the TCCP.

Here, a tabulated comparison made by the CTA Division and the CTA *En Banc* of the details in the counterpart export documents from the General Customs of the People's Republic of China, *vis-à-vis* petitioner's Import Entry and other supporting documents shows that the shipment being referred to in each set of documents is the same, *i.e.*, the 2,406 bundles of steel products. This finding of the CTA Division and the CTA *En Banc* is supported by the fact that the two sets of documents contained identical details such as the Bill of Lading number, the name of the vessel, the shipper's name, the transport details, as well as the total weight of the cargo.

Further, as shown by the CTA Division and the CTA *En Banc*, the two sets of documents differed as to the consignee's name, the description of the imported shipment and the value of the imported articles. Specifically, the consignee as appearing on the counterpart export documents is not petitioner but Solid Sea Products H.K. As to the description of the shipment, the counterpart export documents indicates "1,436 bundles of 10MM x 6M and 970 bundles of 12MMx6M or a total of 2,406 bundles" while petitioner's document provides "2,406 bundles of steel products (SCM 440 round bar)." Lastly, the value of shipment as indicated in the counterpart export documents is US\$1,281,271.86 while the value of shipment as indicated in petitioner's documents is US\$692,254.00.

Thus, as correctly found by the CTA Division which was affirmed

undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a prima facie evidence of fraud penalized under Section 2530 of this Code: Provided, further, That any misdeclaration or undeclared imported article/items found upon examination shall ipso facto be forfeited in favor of the Government to be disposed of pursuant to the provisions of this Code.

When the undervaluation, misdescription, misclassification or misdeclaration in the import entry is intentional, the importer shall be subject to penal provision under Section 3602 of this Code (R.A. 7651, June 04, 1993).

by the CTA *En Banc*, the actual value of the shipment as reflected in the export counterpart documents was intentionally reduced by more than 30% to reduce the amount of duty that petitioner should have paid for subject shipment. Such misdeclaration as to the actual value by more than 30% is *prima facie* evidence of fraud as provided under Section 2503 of the TCCP.

Petitioner's argument that it did not misdeclare the shipment and that it merely restated the description and details of the shipment as found in the commercial and shipping documents entirely prepared and provided by the shipper does not convince the Court. In concluding that petitioner misdeclared its shipment, the CTA Division and the CTA *En Banc* relied on the counterpart export documents which were duly authenticated by the respective authorities from both the foreign and the Philippine Government. On the other hand, petitioner failed to prove the authenticity of the documents appended to its Import Entry. As correctly ruled by the CTA Division and as affirmed by the CTA *En Banc*, if it was true that petitioner's documents were authentic and came from the supplier, petitioner could have secured a certification from the supplier attesting that it made a mistake in the initial documents sent by the supplier to petitioner. However, petitioner failed to do so.

Petitioner also failed to rebut the CTA Division's finding which was affirmed by the CTA *En Banc* that a perusal of the Memorandum of Agreement to Sell dated April 7, 2006 (agreement) as well as the receipt dated May 9, 2006 shows that these documents did not involve "Steel Products (SCM 440 Round Bar)." Instead, the agreement involved "(a) 700.00 Metric Tons or 200,000 pieces, more or less of Grade 230 (Structural Grade) 12mm/5.0 kilos more or less at ₱132.13/piece."

Finally, the CTA Division and the CTA *En Banc*'s finding that there was misclassification of the shipment was based on a chemical analysis of the steel products by the Tariff Commission. Thus, as discussed by the CTA *En Banc*, while petitioner, thru its licensed customs broker, declared the shipment under TH No. 7228.60 at 1% rate of duty, the actual classification of the same shipment based on the chemical analysis of the same steel product showed that it falls under TH 7214.2000 at 7% rate of duty.

Considering that there was a willful misdeclaration, misclassification and undervaluation of petitioner's shipment of steel products, its forfeiture is warranted.

WHEREFORE, the petition is **DENIED**. The Court of Tax Appeals *En Banc* Decision dated June 13, 2019 is **AFFIRMED**.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *WUC 827*

28 AUG 2020

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GR247768. 7/13/2020(115)URES