



Republic of the Philippines
Supreme Court
Manila

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TIME: 01:33

FIRST DIVISION

THE BUREAU OF CUSTOMS
and THE COMMISSIONER OF
CUSTOMS,

G.R. No. 246343

Present:

Petitioners,

GESMUNDO, *CJ*, Chairperson
CAGUIOA,
LAZARO-JAVIER,
*LOPEZ, M., and
LOPEZ, J., *JJ*.

- versus -

JADE BROS. FARM AND
LIVESTOCK, INC.,

Promulgated:

NOV 18 2021

Respondent.

X-----X

DECISION

LOPEZ, J., *J*:

This resolves the Petition for Review on *Certiorari*¹ filed by petitioners Bureau of Customs (*BOC*) and Commissioner of Customs (*Commissioner*) (collectively, *petitioners*, unless individually referred to) assailing the July 4, 2018 Decision² and April 2, 2019 Resolution³ rendered by the Court of Tax Appeals (*CTA*) *en banc* in CTA EB Case No. 1566. While the findings of the *CTA en banc* rulings differed from those of the *CTA* Third Division,

* On wellness leave.

¹ *Rollo*, pp. 9-58.

² Penned by Associate Justice Cielito N. Mindaro-Grulla, concurred in by Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., and Catherine T. Mabanag; with Associate Justices Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, and Ma. Belen M. Ringpis-Liban voting to affirm the assailed *CTA* Third Division rulings; and Associate Justice Caesar A. Casanova inhibiting; *id.* at 60-89.

³ *Id.* at 12-122.

particularly the September 21, 2016⁴ and November 25, 2016⁵ Resolutions in CTA Case No. 8886, the latter rulings stood affirmed as the required vote for the *en banc* to reverse a Division decision was not obtained.

The Antecedents

Sometime in 2013, Jade Bros. Farm and Livestock, Inc. (*JBFLI*), a domestic corporation primarily engaged in the trading of all kinds of agricultural products,⁶ entered into several rice importation transactions.⁷ Upon arrival of the rice shipments at the Manila International Container Port (*MICP*), petitioners refused to release them to *JBFLI* as the latter supposedly had no import permit from the National Food Authority (*NFA*).⁸ From this controversy stemmed two parallel proceedings: one, before the Regional Trial Court, and another before petitioner BOC, which ultimately led to the instant petition.

Proceedings before the Regional Trial Court

JBFLI first filed a Petition for Declaratory Relief and Permanent Injunction with prayer for a Temporary Restraining Order and/or Preliminary Injunction⁹ on February 13, 2014, impleading herein petitioners as among the respondents therein, with the Regional Trial Court (*RTC*) of Manila, docketed as Civil Case No. 14-131418 and assigned to Branch 41 thereof. *JBFLI* argued that the import permit requirement had no basis as the special treatment under the World Trade Order Agreement, which allowed the imposition of quantitative restrictions on rice imports, had already expired after June 30, 2012. It also argued that the various *NFA* issuances relied on by therein respondents to impose a permit requirement find no statutory basis, and at most, the presence or absence of a permit was relevant only for determining the applicable tariff rate. *JBFLI* ultimately prayed that:

1. Upon the filing of this Petition, an *ex parte* Temporary Restraining Order (TRO) effective for 72 hours be immediately issued against the Respondents to enjoin and restrain them, all those acting for and in their behalf and all their agents and responsible officers, from:

a. Requiring the procurement of an Import Permit when importing rice;

b. Seizing and holding all of Petitioner's incoming rice shipments, including but not limited to those covered by Bills of Lading Nos.

⁴ Penned by Associate Justice Lovell R. Bautista and concurred in by Associate Justices Esperanza R. Fabon-Victorino and Ma. Belen M. Ringpis-Liban; *id.* at 183-219.

⁵ *Id.* at 221-225.

⁶ *Id.* at 268.

⁷ *Id.* at 62.

⁸ *Id.*

⁹ *Id.* at 265-322.

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APLU 690195629, APLU 690066069, SITGBKMS013481A, and SITGBKMS013481B, and those other shipments which have recently landed, previously landed, those which are expected to arrive, or will arrive after the filing of the instant Petition or during its pendency, in any Philippine port or any port in Metro Manila, including the Ports of Manila, South Harbor, North Harbor, or Manila International Container Port, within the jurisdiction of this Honorable Court;

c. Implementing any Alert Orders, Hold orders, and issuances in relation to Petitioner's rice importation or;

d. Doing any act that would prejudice Petitioner while the propriety and validity of its actions as enumerated below are still at issue and subject to judicial determination;

2. Pending trial on the merits, the Honorable Court issue a temporary Restraining Order (TRO) and/or writ of Preliminary Injunction enjoining and restraining Respondents, all those acting for and in their behalf, and all their agents and responsible officers, from:

a. Implementing NFA Memorandum Circular No. AO-2K13-03-003, as well as the NFA Council Resolution No. 670-2013-C;

b. Requiring the procurement of Import Permits when importing rice;

c. Seizing the incoming rice shipments of the Petitioner, including those covered by the above-mentioned Bills of Lading, those which have recently landed, previously landed, those which are expected to arrive, or will arrive after the filing of the instant Petition or during its pendency, in any Philippine port, or any port in Metro Manila, including the Ports of Manila, South Harbor, North Harbor, or Manila International Container Port, within the jurisdiction of this Honorable Court and/or refusing to release the same on the basis of the lack of an Import Permit through the implementation of any Alert Orders, Hold Orders, and other issuances and;

d. Doing any act that would prejudice Petitioner while the propriety and validity of its actions as enumerated in the preceding paragraphs, are still at issue and subject to judicial determination.

3. After the conduct of necessary proceedings, the Honorable Court issue a Writ of Preliminary Injunction, effective from the date of the filing of the instant Petition up to the finality of the same, enjoining the Respondents, all those acting for and in their behalf and all their agents and responsible officers, from committing the above-mentioned acts, after a bond shall have been posted by the Petitioner to answer for whatever damages that the Respondents may suffer by virtue of its issuance over and above all claims and counterclaims;

4. After trial on the merits and hearing, the Honorable Court make such Writ of Injunction permanent and declare NFA Memorandum Circular No. AO-2K13-03-003, as well as the NFA Council Resolution No. 670-2013-C as irregular and/or illegal, that the Respondents have no legal authority and power to require the procurement of Import Permits when importing rice, and conversely, that the Petitioner has the legal right to import rice without the need to procure Import Permits, and;

5. After trial on the merits and hearing, the Honorable Court render a Decision perpetually enjoining Respondents, all those acting for and in their behalf and all their agents and responsible officers, from committing the above-mentioned acts.¹⁰

Proceedings before the Bureau of Customs

During the pendency of Civil Case No. 14-131418, JBFLI wrote the MICP District Collector of Customs (*District Collector*) a Letter¹¹ dated June 2, 2014, formally requesting the lifting of alert orders against its rice shipments, and immediate release thereof. JBFLI stated that if the latter option is not be feasible, then it would be asking for the issuance of Warrants of Seizure and Detention (*WSD*) against the shipments, and their release upon submission of a cash bond; and if still not acceptable, then the auction of the shipments. Respondent JBFLI followed up with a Letter¹² dated July 11, 2014, this time expressing preference for the issuance of a WSD and release under cash bond over a public auction, citing as authority various rulings of the Court.¹³

The District Collector then issued four identical WSDs all dated July 21, 2014, instituting Seizure Identification Case (*SIC*) Nos. 356-2014,¹⁴ 357-2014,¹⁵ 358-2014,¹⁶ and 359-2014¹⁷ (*SIC Cases*). The dispositive portions of the WSDs similarly read:

WHEREFORE, by virtue of the authority vested in this Office by law, and in compliance with pertinent Customs laws, rules and regulations, you are hereby ordered to forthwith seize the afore-mentioned articles and turn over the same to the custody of the Auction and Cargo Disposal Division, MICP, pending termination of the seizure proceedings and/or until further order from this Office. In this connection, please be guided by Customs memorandum Circular No. 8-84, particularly on the matter of making return of service of inventory or list of the articles seized.

For the SIC Cases, JBFLI filed a Consolidated Motion for Release Under Cash Bond¹⁸ (*motion for release*) before the MICP District Collector, praying as follows:

¹⁰ *Id.* at 319-321.

¹¹ *Id.* at 323.

¹² *Id.* at 324-329.

¹³ Namely: *Sec. Alcala v. Judge Carpio*, G.R. Nos. 211146 & 211375, April 22, 2014 (Resolution); and *Secretary of the Department of Finance v. Court of Tax Appeals*, 716 Phil. 38 (2013).

¹⁴ *Rollo*, pp. 333-334.

¹⁵ *Id.* at 335-336.

¹⁶ *Id.* at 337-338.

¹⁷ *Id.* at 339-340.

¹⁸ *Id.* at 344-394.

1. Issuance by the Honorable Office of an Order authorizing the release under cash bond in favor of the herein Claimant or his/its duly authorized representative subject to approval by the Commissioner of Customs, posting of sufficient amount of cash bond, payment of the proper duties and other charges and compliance with pertinent laws, rules and regulations considering that the release under cash bond is most advantageous to the government during the pendency of the instant seizure proceeding compared to public sale pursuant to Section 2607 of the TCCP;

2. Issuance by the Honorable Office of an Order quashing or recalling the WSDs issued in the subject seizure cases, thereby terminating the instant seizure proceedings because of lack of factual and legal basis in recognition of the true and actual state of the law regarding QR on rice importation under RA 8178 in relation to the WTO Agreements, which have to be harmonized together as set of reconcilable national laws; subject to automatic review by higher authorities, return of the net proceeds of the cash bond posted in case the Motion for Release Under Cash Bond is approved, payment of the proper duties and other charges and compliance with pertinent laws, rules and regulations; xxx.¹⁹

Still, invoking Sections 2607 and 2601 of Republic Act (R.A.) No. 1937, or the Tariff and Customs Code of the Philippines (TCCP), Customs Memorandum Order (CMO) No. 042-1993, and Customs Administrative Order (CAO) No. 10-2007,²⁰ the District Collector posted on August 20, 2014 a Notice of Public Auction for the rice shipments subject of the SIC Cases to be held on August 28, 2014. This Notice prompted JBFLI to write the District Collector an August 22, 2014 letter²¹ requesting the cancellation or postponement of the auction, the immediate resolution of the motion for release, failing which, that JBFLI be admitted as participant in the auction and the proceeds thereof placed in escrow.

The District Collector gave no direct response to either the August 22, 2014 letter or the motion for release. However, it issued a September 1, 2014 Notice of Public Auction²² rescheduling the auction of the rice shipments to September 11, 2014.

*Proceedings before the Court of
Tax Appeals*

The September 1, 2014 Notice of Public Auction impelled JBFLI to file on September 3, 2014 a Petition for Review with Application for Temporary Restraining Order, *Status Quo Ante* Order and/or Writ of Preliminary Injunction as well as Release Under Bond²³ with the CTA, docketed as CTA Case No. 8886, and assigned to the Third Division thereof. JBFLI justified its immediate resort to the CTA as an exception to the exhaustion of

¹⁹ *Id.* at 392-393.

²⁰ Rules and Regulations in the Conduct of Public Auction and Negotiated Sale.

²¹ *Rollo*, pp. 330-331.

²² *Id.* at 462-472.

²³ *Id.* at 395-461.

administrative remedies arguing that the BOC denied it due process, and that the BOC should have allowed the release of the rice shipments, even if under a cash bond. JBFLI prayed thus:

1. Upon the filing of this Complaint, an *ex parte* Temporary Restraining Order (TRO)/writ of preliminary injunction be immediately issued against the Respondent Commissioner, the Bureau of Customs, and all those acting in their behalf or pursuant to their instructions, from conducting any public auction concerning the rice shipments subject herein, scheduled on 11 September 2014 with the MICP, and from doing similar acts or otherwise conducting any similar sale or disposition of Petitioner's rice shipments, while the propriety and validity of its actions are still at issue and subject to judicial determination;

2. Pending trial on the merits, the Honorable Court issue a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction enjoining and restraining Respondent Commissioner, the Bureau of Customs, and all those acting in their behalf or pursuant to their instructions, from:

a. Proceeding with the public auction scheduled on 11 September 2014 or any time thereafter,

b. Selling or otherwise disposing the subject property either through sale, public auction, donation, or any alternative mode of disposition, on 11 September 2014 or any time thereafter, and

c. From doing any similar acts that would dispose Petitioner's rice shipments or otherwise deprive him thereof, or while the propriety and validity of its actions as enumerated in the preceding paragraphs, are still at issue and subject to judicial determination; and

3. Pending trial on the merits, the Honorable Court issue an order releasing the subject rice shipments upon posting of a bond by the Petitioner, in an amount equivalent to the value of the subject rice shipments as assessed and valued by the Bureau of Customs and payment of the 50% out-quota tariff due on the subject rice shipments, including the demurrage and storage charges thereon, and DIRECTING the Bureau of Customs, Respondent Commissioner of Customs, and all those acting in their behalf, to ACCEPT and PROCESS the payments, and to immediately release all the rice shipments, which are highly perishable goods.

4. After trial on the merits and hearing, judgment be rendered making said Preliminary Injunction permanent, declaring the importation of Petitioner's rice shipments as legal, and ordering the return of any bond posted or paid by the Petitioner in relation to the instant proceedings, or ordering the release of any rice shipments being still in the custody of the Respondents.²⁴

Meanwhile, in Civil Case No. 14-131418, the RTC issued a September 10, 2014 Order²⁵ granting JBFLI's motion to withdraw its prayers for injunctive relief. The CTA Third Division, on the other hand, granted JBFLI's application for a TRO, disposing in its September 11, 2014 Resolution²⁶ as follows:

²⁴ *Id.* at 455-457.

²⁵ *Id.* at 474-475.

²⁶ *Id.*

NOW, THEREFORE, within twenty (20) days from notice hereof, respondents **BUREAU OF CUSTOMS** and **THE COMMISSIONER OF CUSTOMS**, their officers, subordinates, personnel and agents and/or any other person acting on their behalf or authority, are hereby **ORDERED to CEASE and DESIST** from conducting the Public Auction scheduled for the second time on September 11, 2014 at 2:30 p.m., concerning the subject rice shipments covered by Warrants of Seizure and detention Nos. 356-2014 to 359-2014 issued by Manila International Container Port (*MICP*) District Collector M/GEN. Elmir S. Dela Cruz (Ret.).

SO ORDERED.²⁷

However, the 20-day TRO expired without any writ of preliminary injunction being issued. Hence, the District Collector proceeded to issue an October 7, 2014 Notice of Public Auction,²⁸ again rescheduling the auction to October 17, 2014. This auction was conducted, and the rice shipments subject of the SIC Cases were sold.

Before CTA Case No. 8886, petitioners filed their Answer²⁹ arguing, among other points, that the case had been mooted by the conduct of the October 17, 2014 auction, and that JBFLI had engaged in forum-shopping, considering the pendency of Civil Case No. 14-131418 before the RTC. After due proceedings, JBFLI then submitted its Memorandum,³⁰ to which petitioners responded with a Manifestation³¹ adopting the arguments in their Answer.

On September 21, 2016, the CTA Third Division rendered its Resolution³² ruling that it had jurisdiction to entertain JBFLI's petition for review, that the latter had not engaged in forum-shopping, and that its rice importations did not require a permit, hence, were not illegal. It disposed the case as follows:

WHEREFORE, the instant Petition for Review is **GRANTED**. The Court hereby declares petitioner's rice shipments, covered by Bills of Lading Nos. APLU690066069, APLU690195629, SITGBKMS013481A and SITGBKMS013481B, as having been legally imported in the Philippines. Considering that petitioner's rice shipments have already been auctioned, respondents are hereby **ORDERED TO RELEASE** to petitioner, the proceeds of the auction sale held last October 17, 2014, which are presently held in trust by respondents, less the applicable ordinary duties, taxes, penalties, government fees and assessments, that may be assessed over the subject importations.

²⁷ *Id.* at 475.

²⁸ *Id.* at 501-502.

²⁹ *Id.* at 503-555.

³⁰ *Id.* at 639-727.

³¹ *Id.* at 728-730.

³² *Id.* at 183-219.

SO ORDERED.³³

Despite petitioners moving for reconsideration, the CTA Third Division affirmed its ruling in a November 25, 2016 Resolution.

Aggrieved, petitioners filed a Petition for Review³⁴ before the CTA *en banc*, which appeal was docketed as CTA EB Case No. 1566, seeking the reversal of the CTA Third Division's September 21, 2016 and November 25, 2016 Resolutions. The petitioners argued that the CTA Third Division did not have jurisdiction to entertain JBFLI's Petition for Review, that it had engaged in forum-shopping, and that the CTA Third Division wrongfully affirmed the legality of JBFLI's rice imports. JBFLI then filed its Comment/Opposition³⁵ essentially rehashing its arguments in previous submissions.

The CTA *en banc* then rendered the assailed July 4, 2018 Decision.³⁶ In explaining that the Third Division did not have jurisdiction to entertain JBFLI's Petition thereto, the *en banc* pointed out that the Third Division mistakenly relied on *Allied Banking Corporation v. Commissioner of Internal Revenue*.³⁷ Whereas the latter case concerned a formal letter of demand of tax deficiency assessment, which constituted a final decision rendering unnecessary the exhaustion of administrative remedies, the present controversy involves seizure and forfeiture where recourse must first be sought with the Commissioner. In finding that JBFLI engaged in forum-shopping, the *en banc* found identical the parties, reliefs, and facts involved in the petition for declaratory relief before the RTC, and the petition for review before the CTA Third Division. Nevertheless, as the required vote to overturn the Third Division's rulings was not obtained, the same stood affirmed, thus:

WHEREFORE, considering that the required affirmative votes of five (5) members of the Court *en banc* was not obtained in the instant case, pursuant to Section 2 of Republic Act No. 1125, as amended by Republic Act No. 9503 in relation to Section 3 of Rule 2 of the Revised Rules of the Court of Tax Appeals, the Petition for Review filed by the Bureau of Customs and the Commissioner of Internal Revenue is hereby **DISMISSED**. The Assailed Resolutions are hereby **AFFIRMED**.

Accordingly, the Court hereby declares the rice shipments of Jade Bros. Farm and Livestock, Inc. covered by Bills of Lading Nos. APLU690066069, APLU690195629, SITGBKMS013481A and SITGBKMS013481B, as having been legally imported in the Philippines. Considering that the rice shipments have already been auctioned, the Bureau of Customs and the Commissioner of Customs are hereby **ORDERED TO RELEASE** to Jade Bros. Farm and Livestock, Inc. the proceeds of the auction sale held last October 17, 2014, which are presently held in trust by the Bureau of Customs and the Commissioner of Customs, less the applicable ordinary duties, taxes, penalties,

³³ *Id.* at 219

³⁴ *Id.* at 123-181.

³⁵ *Id.* at 820-849.

³⁶ *Id.* at 60-89.

³⁷ 625 Phil. 530 (2010).

government fees and assessments, that may be assessed over the subject importations.

SO ORDERED.³⁸

Petitioners moved for reconsideration,³⁹ abandoning the question on the legality of the rice imports, taking issue only with respect to the matters of jurisdiction and forum-shopping. Still, as the required number of votes to overturn the CTA Third Division's rulings and reconsider the CTA *en banc*'s July 4, 2018 Decision was again not obtained, the CTA *en banc* affirmed the latter ruling in its April 2, 2019 Resolution.

Finally, petitioners filed the instant petition for review, assailing the CTA *en banc*'s rulings, to which JBFLI filed its Comment.⁴⁰

Issues

I.

Whether the CTA Third Division could entertain JBFLI's Petition for Review, under the circumstances; and

II.

Whether JBFLI engaged in forum-shopping by filing the petition for review before the CTA, despite the pendency of Civil Case No. 14-131418 before the RTC.

Our Ruling

The Court denies the petition for review and resolves both issues in favor of JBFLI.

The auction of perishable rice shipments vis-a-vis the legality of the imports

At the outset, the Court draws crucial distinctions between the main proceeding in SIC Nos. 356-2014 to 359-2014, concerning the legality of JBFLI's rice imports, and the incident on the public auction of perishable rice shipments.

³⁸ *Id.* at 87-88.

³⁹ *Id.* at 226-260.

⁴⁰ *Id.* at 955-1007.

As to legal basis, the SIC Cases were instituted by the District Collector following Section 1207⁴¹ of the TCCP precisely to determine the legality of the rice imports for which WSDs were issued pursuant to Section 2301⁴² of the TCCP. On the other hand, the auction of perishable goods finds statutory basis in Section 2607⁴³ of the TCCP, and is implemented through CMO No. 042-1993 and CAO No. 10-2007.⁴⁴

As to primacy of issues, the question on the legality of imports is the predominant matter, while the auction of perishable goods is merely a provisional measure resorted to when the seized property “is liable to perish or be wasted or to depreciate greatly in value by keeping, or which cannot be kept without great disproportionate expense[.]”⁴⁵

As to manner of conduct, perishable property is auctioned off without prejudice to further proceedings determining the legality of the importations. This is evident from Section 5.c of CAO 10-2007 which requires only an examiner's/appraiser's certification that the articles are perishable so that the auction may proceed. After the conduct of which, pursuant to CMO 042-1993, “the proceeds thereof [are] to be held in escrow to be awarded to the party in whose favor the case will be decided.” In contrast, forfeiture and auction sale may also be employed as a final sanction if done pursuant to Section 2601(d)⁴⁶ of the TCCP, after the importation has been adjudged illegal. In which case,

⁴¹ SECTION 1207. *Jurisdiction of Collector Over Articles of Prohibited Importation.* — Where articles are of prohibited importation or subject to importation only upon conditions prescribed by law, it shall be the duty of the Collector to exercise such jurisdiction in respect thereto as will prevent importation or otherwise secure compliance with all legal requirements.

⁴² SECTION 2301. *Warrant for Detention of Property — Bond.* — Upon making any seizure, the Collector shall issue a warrant for the detention of the property; and if the owner or importer desires to secure the release of the property for legitimate use, the Collector may surrender it upon the filing of a sufficient bond, in an amount to be fixed by him, conditioned for the payment of the appraised value of the article and/or any fine, expenses and costs which may be adjudged in the case: Provided, That articles the importation of which is prohibited by law shall not be released under bond.

⁴³ SECTION 2607. *Disposition of Articles Liable to Deterioration.* — Perishable articles shall not be deposited in a bonded warehouse; and, if not immediately entered for export or for transportation from the vessel or aircraft in which imported or entered for consumption and the duties and taxes paid thereon, such articles may be sold at auction, after such public notice, not exceeding three days, as the necessities of the case permit.

When seizure shall be made of property which, in the opinion of the Collector, is liable to perish or be wasted or to depreciate greatly in value by keeping, or which cannot be kept without great disproportionate expense, whether such property consists of live animals or of any article, the appraiser shall so certify in his appraisal, then the Collector may proceed to advertise and sell the same at auction, upon notice as he shall deem to be reasonable.

The same disposition may be made of any warehouse article when in the opinion of the Collector it is likely that the cost of depreciation, damage, leakage or other causes, may so reduce its value as to be insufficient to pay the duties, taxes and other charges due thereon, if it should be permitted to be so kept and be subjected to sale in the usual course.

⁴⁴ RULES AND REGULATIONS IN THE CONDUCT OF PUBLIC AUCTION AND NEGOTIATED SALE.

⁴⁵ Republic Act No. 1937, Tariff and Customs Code of the Philippines (TCCP) (1957), Section 2607.

⁴⁶ SECTION 2601. *Property Subject to Sale.* — Property in customs custody shall be subject to sale under the conditions hereinafter provided:

x x x x

d. Seized property, other than contraband, after liability to sale shall have been established by proper administrative or judicial proceedings in conformity with the provisions of this Code.

x x x x

Section 5.b of CAO 10-2007 requires a “Certificate of Finality of Forfeiture” so that the auction may proceed.

*The Court of Tax Appeals
Division exercises exclusive
appellate jurisdiction over
decisions of the Commissioner of
Customs*

The subject matter jurisdiction of the CTA Division over an appeal from the SIC Cases, whether concerning the main issue regarding the legality of imports, or the incident on the auction of perishable goods, is statutorily-entrenched. Section 7(a)(4) of R.A. No. 1125, as amended by R.A. No. 9282 provides:

Sec. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x x

(4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs; x x x.

As a matter of procedure, and to facilitate the orderly exercise of jurisdiction,⁴⁷ Rule 4, Section 3(a)(4) of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, clarifies that appeals from such actions of the Commissioner are heard at the first instance by the CTA Division.

Given the foregoing, the point of contention is really whether the CTA Third Division could, under the circumstances, entertain JBFLI's petition for review and give due course thereto in CTA Case No. 8886. This issue hinges on the sub-questions of (1) whether the District Collector's actions were already appealable to the CTA Division; and (2) whether JBFLI failed to

⁴⁷ “To restate, the designation of Special Commercial Courts was merely intended as a procedural tool to expedite the resolution of commercial cases in line with the court's exercise of jurisdiction. This designation was not made by statute but only by an internal Supreme Court rule under its authority to promulgate rules governing matters of procedure and its constitutional mandate to supervise the administration of all courts and the personnel thereof. Certainly, an internal rule promulgated by the Court cannot go beyond the commanding statute. But as a more fundamental reason, the designation of Special Commercial Courts is, to stress, merely an incident related to the court's exercise of jurisdiction, which, as first discussed, is distinct from the concept of jurisdiction over the subject matter. The RTC's general jurisdiction over ordinary civil cases is therefore not abdicated by an internal rule streamlining court procedure.” *Gonzales v. GJH Land, Inc.*, 772 Phil. 483 (2015). (Citations omitted)

exhaust administrative remedies. The Court shall jointly address these two matters.

*The Court of Tax Appeals
Division could already review
the actions of the District
Collector*

Relying on the CTA *en banc* case of *Galang v. The Bureau of Customs*⁴⁸ (*Galang*), petitioners contend that the Commissioner had yet to release a final ruling on the SIC Cases, hence there was nothing yet for the CTA Division to review. JBFLI, on the other hand, argues that the issuance of the September 1, 2014 Notice of Public Auction already constituted a ruling on the motion for release, hence, ripe for review.

The Court agrees with JBFLI. The posting of the September 1, 2014 Notice of Public Auction, and as consummated through the October 17, 2014 Auction, already constituted a constructive denial of the motion for release, for which direct resort to the CTA Division could be made, even without waiting on any final ruling from the Commissioner.

Based on the distinctions previously laid down, JBFLI's rice shipments were auctioned off as a provisional measure, since such shipments were perishable, without prejudice to further proceedings on the legality of the imports. In the meantime, the funds generated from the auction sale would be held in escrow, pursuant to CMO 042-1993. Hence, JBFLI initially filed the motion for release precisely to secure the very rice shipments for further lawful transaction.

Generally, the actions of the District Collector are appealable to the Commissioner.⁴⁹ Yet, appealing the notice and conduct of the thereto would be pointless since, by that time, the sale of the rice shipments would be *fait accompli* – there would be nothing to release to JBFLI since the rice shipments had already been auctioned off. Owing to the pressing circumstances attendant in the auction of seized perishable goods, further appeal on such action was rendered impracticable. Crucially, statutory construction enjoins that laws be construed in a manner that avoids absurdity or unreasonableness.⁵⁰

In another sense, the circumstances squarely fell within several exceptions to the principle of exhaustion of administrative remedies, particularly:

⁴⁸ CTA EB Case No. 1451, December 19, 2017 (Decision) and June 7, 2018 (Resolution).

⁴⁹ TCCP, Sections 703 and 2313.

⁵⁰ *Microsoft Corp. v. Manansala*, 772 Phil. 15, 22 (2015).

1. When further recourse would be an exercise in futility,⁵¹ since, as discussed above, JBFLI would no longer be able to secure the release of its rice shipments even if it appealed to the Commissioner.
2. When the party invoking the doctrine is estopped,⁵² since the very conduct of the October 17, 2014 auction betrays and affirms the earlier resolve not to grant the motion for release, although made only more explicit after the fact.
3. When there is unreasonable delay or official inaction leading to prejudice,⁵³ considering that as early as its June 2, 2014 Letter, JBFLI already requested the release of the shipments, but the District Collector never directly acted on such matter, up until the October 17, 2014 Auction—more than four months of inaction.
4. Where the absence of any plain, speedy, and adequate remedy calls for immediate judicial intervention,⁵⁴ as the auctioning off of the rice shipments is irreversible and petitioners can no longer reconstitute the same to JBFLI, and considering that the CTA Division could very well act on and enjoin, as it had with the 20-day TRO, the then-pending auction of the rice shipments.

All told, JBFLI had every right to bypass the Commissioner, and directly seek recourse with the CTA Division.

From an economic standpoint, to require further recourse with the Commissioner entirely misses the essence of the motion for release, which was to secure the imported rice shipments themselves so that they may be transacted for some lawful purpose. Importers like JBFLI are international trade intermediaries that facilitate the free flow of goods,⁵⁵ *i.e.*, imported from abroad for further domestic supply and transaction. Imports, such as JBFLI's rice shipments, serve as vital input for domestic trade and services, thus generating value through each chain of transaction, ultimately serving as commodities for end-consumers.⁵⁶ The conduct of the October 17, 2014 auction thus deprived JBFLI of the opportunity to generate a profit from trading its rice shipments. While the winning bidder therein might have further transacted the rice, their perishable nature would have quickly diminished the value over time, severely limiting the timeframe within which they could be fruitfully traded. As the Filipino saying goes: “*aanhin pa ang damo kung patay na ang kabayo?*”

⁵¹ *Commissioner of Customs v. Oilink*, 738 Phil. 27, 35 (2014).

⁵² *SAMELCO II v. Seludo, Jr.*, 686 Phil. 786, 797 (2012).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See Hege Medin, Customs brokers as intermediaries in international trade, 157 *Review of World Economics* 295-322 (2021).

⁵⁶ See Organisation for Economic Co-operation and Development, *Policy Framework for Investment* (2015 Ed.), Chap. 3 on Trade Policy.

While the facts of *Galang* seemingly resemble the present controversy, a closer comparison of the details constrains the Court to rule differently.

To begin with, it appears that the impending auction in *Galang* was conducted, not as a provisional measure to preserve the value of perishable goods, but as an intended penalty accompanying the adjudication of the legality of the imports: "Petitioners filed the Petition therein without waiting for the Commissioner's decision on the seizure and forfeiture proceedings as regards the rice shipments."⁵⁷ Hence, the petitioners in *Galang* prematurely appealed to the CTA Division, considering that the main issue regarding the legality of the imports was pending resolution.⁵⁸ Here, JBFLI sought before the CTA Division a review of the District Collector's actions on the auction sale, a matter which was already resolved considering the constructive denial of the motion for release.

Petitioners even admitted in their Answer before the CTA Third Division that upon the conduct of the October 17, 2014 auction, there was nothing else left to resolve on that matter: "In view of the public sale of petitioner's rice shipments, petitioner's first three prayers in the instant petition which seek to prevent the public auction of its rice shipments, had already been rendered moot and academic."⁵⁹ Whereas in *Galang*, therein petitioners admitted that they still had further recourse in order to avert the forfeiture and sale of their seized articles.

Finally, the petitioners in *Galang* merely speculated that the Commissioner would rule adversely to them. In the present case, the District Collector was not only resolutely predisposed to deny JBFLI's motion for release, considering its prolonged silence on the request for release and the sequential issuance of Notices of Public Auction; but more critically, the District Collector did consummate the auction sale, thus laying bare its intent to deny JBFLI's motion for release. Thus, appeal to the CTA Division was made particularly to stave off the auction.

In sum, the District Collector's issuance of the September 1, 2014 Notice of Public Auction already constituted a constructive denial of respondent JBFLI's motion for release, a predisposition which was only affirmed when the District Collector did eventually push through with the October 17, 2014 auction. This constructive denial could already be appealed to the CTA Division since, considering the expediency of the auction for perishable goods, further recourse with the Commissioner would be pointless.

⁵⁷ CTA EB Case No. 1451, December 19, 2017 (Decision) and June 7, 2018 (Resolution).

⁵⁸ In this regard, strictly speaking, it was the main issue on the legality of the rice imports that respondent JBFLI prematurely brought before the CTA Division. Nevertheless, such issue was fully ventilated before the CTA Third Division and the CTA *en banc* without any objection from petitioners, and was no longer appealed to the Court. Hence, such issue has attained finality. See *G.G. Sportswear Mfg. Corp. v. World Class Properties, Inc.*, 627 Phil. 703, 717-718 (2010).

⁵⁹ *Rollo*, p. 514. (Underscoring supplied)

JBFLI did not commit forum shopping when it filed the petition for review before the Court of Tax Appeals Division

The elements of forum shopping are: (1) the identity of parties or parties that represent the same interests in both actions; (2) the identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (3) the identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration, regardless of which party is successful.⁶⁰

Based on the foregoing, the Court finds that JBFLI did not commit forum shopping when it instituted its petition for review before the CTA Division, despite the pendency of Civil Case No. 14-131418 before the RTC. In particular, the second and third elements above do not obtain.

No identity of reliefs between the two proceedings exists. To begin with, Civil Case No. 14-131418 is a proceeding for declaratory relief, for which JBFLI questioned the legal basis for the District Collector's imposition of an import permit. In contrast, JBFLI's petition before the CTA Division was precipitated by the District Collector's impending auction of its imported rice shipments, although the main issue on the legality of imports was also pleaded.⁶¹

Hence, a vast disparity is wedged between the reliefs prayed for in Civil Case No. 14-131418 and CTA Case No. 8886. In the former, JBFLI's reliefs were targeted specifically against petitioners' reliance on various NFA issuances to impose an import permit, as a pretext for the seizure and detention of the rice shipments. The reliefs therein made no specific mention of any impending auction sale simply because, at the time of the filing of the petition for declaratory relief, none was impending. At most, JBFLI only included a broadly-drawn prayer to enjoin any act which would prejudice it pending the resolution of Civil Case No. 14-131418. On the other hand, the petition for review prayed specifically for the prevention of the impending auction sale — a circumstance that supervened since the filing of the petition for declaratory relief before the RTC.

More significantly, R.A. No. 1125, as amended by R.A. No. 9282, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies, such as the Commissioner, on tax-related problems must be brought exclusively to the CTA,⁶² particularly its Division at the first instance. The CTA exercises exclusive appellate jurisdiction to review by appeal all

⁶⁰ *BF Citiland Corp. v. Bangko Sentral ng Pilipinas*, G.R. No. 224912, October 16, 2019.

⁶¹ See *supra* note 58.

⁶² *Banco De Oro v. Republic*, 793 Phil. 97, 124 (2016).

cases involving disputed assessments of internal revenue taxes, customs duties, and real property taxes.⁶³

Since the District Collector's actions are matters exclusively reviewable by the CTA Division, then JBFLI could not have confined its recourse to Civil Case No. 14-131418 as the RTC did not possess the competence to pass upon the District Collector's actions. To rule otherwise would breach the allocation of authority between the CTA and the regular courts, thereby vesting the latter with appellate jurisdiction over the actions of the Commissioner. Since R.A. No. 1125, as amended by R.A. No. 9282, provides for an appeal from decisions of the Commissioner to the CTA, it means that the former is co-equal with the RTC, in terms of rank and stature, and logically, beyond the control of the latter.⁶⁴ This is precisely the reason why JBFLI withdrew its prayer for injunctive relief before the RTC: the RTC was not statutorily-empowered to restrain the actions of the District Collector, such prerogative properly being lodged with the CTA Division.

Consequently, no *res judicata* would result from the resolution of one or the other proceeding. Assuming the RTC adjudged the petitioners to be without legal basis in requiring permits to import rice shipments, the District Collector's actions regarding the public auction would still have been beyond the scope of resolution. On the other hand, even if the CTA Division had ruled on the legality of JBFLI's rice imports, the legality of the NFA issuances relied on by petitioners would still be pending before the RTC.

Another pivotal detail is the fact that JBFLI's petition for review before the CTA Division is merely a continuation of the proceedings borne out by the SIC Cases. The particular issue thereof was the imminent auction sale of the rice shipments, for which the motion for release was already constructively denied because of the District Collector's September 1, 2014 Notice of Public Auction. As held in *Guy v. Asia United Bank*:⁶⁵

The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment, through means other than by appeal or certiorari. The rule thus does not apply to cases that arise from an initiatory or original action which has been elevated by way of appeal or certiorari to higher or appellate courts or authorities. This is so not only because the issues in the appellate courts necessarily differ from those in the lower court, but also because the appealed cases are a continuation of the original case and treated as only one case. For, it would be absurd to require, say in this instant petition, to make mention in the certification against non-forum shopping the CA case that is being sought to be reviewed in the petition at bench.⁶⁶

⁶³ *Steel Corporation of the Philippines v. Bureau of Customs*, 825 Phil. 809, 823-824 (2018).

⁶⁴ *The Presidential Anti-Dollar Salting Task Force v. Court of Appeals*, 253 Phil. 344, 355 (1989).

⁶⁵ 561 Phil. 103, 118-119 (2007).

⁶⁶ Citations omitted, underscoring supplied.

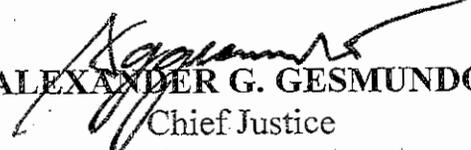
Thus, JBFLI did not commit forum-shopping, and the CTA Third Division could very well have entertained the petition for review and given due course thereto in CTA Case No. 8886. Absent in the present proceedings is that degree of malice and inclination to vex the courts characteristic of willful and deliberate forum-shopping.⁶⁷

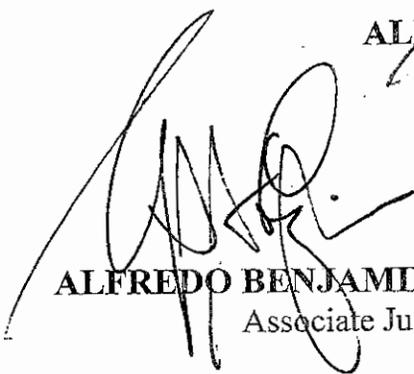
WHEREFORE, the Petition for Review on *Certiorari* filed by the Bureau of Customs and the Commissioner of Customs is **DENIED**. The July 4, 2018 Decision and April 2, 2019 Resolution of the Court of Tax Appeals *en banc* in CTA EB Case No. 1566 are **AFFIRMED**. Since the rice shipments imported by Jade Bros. Farm and Livestock, Inc. have already been auctioned, the Bureau of Customs and the Commissioner of Customs are hereby **ORDERED TO RELEASE** to Jade Bros. Farm and Livestock, Inc. the proceeds of the auction sale held on October 17, 2014, which they presently hold in trust, less the applicable ordinary duties, taxes, penalties, government fees and assessments, that may be assessed over the subject importations.

SO ORDERED.


JHOSEP V. LOPEZ
 Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
 Chief Justice
 Chairperson


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


AMY C. LAZARO-JAVIER
 Associate Justice

MARIO V. LOPEZ
 Associate Justice
 (On wellness leave.)

⁶⁷ *Spouses Arevalo v. Planters Development Bank*, 686 Phil. 236, 251 (2012).

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice