

THIRD DIVISION

- versus -

Members:

PETER PAUL L. CALUMPANG,
(Hinatilan, Cebu City)

MODESTO-SAN PEDRO, *Chairperson*
and

EFREN C. RAMOS,
(Bonifacio St., Lamacan, Cebu City)

FERRER-FLORES, JJ.

DIOSCORO B. ABASTAS,
(Fidel Bas St., Upper Mohon Talisay
City, Cebu)

ALFRED BACALLA,
(Bacolod/Top Corp. Bldg., BREDCO
Reclamation Area, Bacolod City),

Promulgated:

Accused.

FEB 04 2026

3:44 p.m.

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RESOLUTION

For resolution of this Court are the following:

1. **Motion to Quash the Information (For the accused Dioscoro B. Abastas and Alfred Bacalla)** (*Motion to Quash*) filed on February 3, 2025, without plaintiff's comment despite due notice as per Records Verification dated June 11, 2025; and,
2. **Omnibus Motion (Motions to Quash or to Dismiss)** (*Omnibus Motion*) filed by accused Peter Paul L. Calumpang and Efren C. Ramos on July 1, 2025, without plaintiff's comment despite due notice as per Records Verification dated October 1, 2025.

On July 8, 2024, the prosecution filed the *Information* dated March 26, 2024 against accused Peter Paul L. Calumpang, Efren C. Ramos, Dioscoro B. Abastas, and Alfred Bacalla for violation of Section 1401(f), in relation to Section 117, of Republic Act (R.A.) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Finding the existence of probable cause,¹ Warrants of Arrest against all of the accused were issued on November 21, 2024.²

Consequently, accused Abastas and Bacalla were both arrested on December 12, 2024.³ Both accused Abastas and Bacalla posted cash bail bond in the amount of ₱200,000.00 each⁴ and were discharged from custody.⁵ On the other hand, accused Calumpang and Ramos were arrested on June 10, 2025⁶ and their surety bail bonds in the amount of ₱200,000.00 each⁷ were posted on even date. Thus, accused Calumpang and Ramose were also discharged from custody.⁸

Abastas and Bacalla then filed the present *Motion to Quash* praying that the *Information* be quashed and that the cash bail bond posted by them in the total amount of ₱400,000.00 be released. The *Motion to Quash* was made in view of the Order of the Bureau of Customs (BOC) Port of Limay dated February 5, 2024, finding that the seized imported sacks of rice were validly imported and that the duties and taxes were paid, as affirmed by the Secretary of Finance (SOF) in his Order dated May 7, 2024, and the subsequent release of the seized imported rice in accordance with the Release Order dated May 17, 2024 issued by the District Collector of Customs Port of Limay.

On March 27, 2025, instead of filing a comment,⁹ plaintiff filed via registered mail its *Compliance (Re: Minute Resolution dated 24 February 2025)*, stating that it received on March 10, 202[5] the Court's Minute Resolution dated February 24, 2025 directing the plaintiff to file a comment on the *Motion to Quash* filed by accused; that it has yet to receive a copy of the said *Motion to Quash* and by way of *Compliance* submits its manifestation.

¹ Resolution dated November 18, 2024, Docket – Vol. I, pp. 373 to 379.

² Docket – Vol. I, pp. 380 to 387.

³ Certificates of Detention, Docket – Vol. I, pp. 445 and 426, respectively.

⁴ Official Receipts, Docket – Vol. I, pp. 438 and 417, respectively.

⁵ Orders of Release dated December 16, 2024, Docket – Vol. I, pp. 437 and 415, respectively.

⁶ Certifications dated June 10, 2025 issued by the Philippine National Police Regional Office 7, Docket – Vol. II.

⁷ Personal Bail Bonds issued June 10, 2025, Docket – Vol. II.

⁸ Orders of Release dated June 10, 2025, Docket – Vol. II.

⁹ Records Verification dated June 11, 2025 issued by the Judicial Records Division, Docket – Vol. II.

Thereafter, on July 1, 2025, accused Calumpang and Ramos filed their *Omnibus Motion* seeking the quashal of the *Information* and the dismissal of the present case, to which plaintiff failed to file any comment or opposition.¹⁰

For an orderly disposition of the case, the Court shall first outline the allegations and arguments in the *Motion to Quash* (for accused Abastas and Bacalla) and the *Omnibus Motion* (for accused Calumpang and Ramos) or, collectively, the *Motions to Quash*.

***Motion to Quash the Information
(For the accused Dioscoro B.
Abastas and Alfred Bacalla)***

In their *Motion to Quash*, accused Abastas and Bacalla anchor their arguments on the ground that the facts charged in the *Information* do not constitute an offense.

Allegedly, the fundamental test in determining the sufficiency of the material averments in an information, as a general rule, is whether or not the facts alleged in the criminal information, which are hypothetically admitted, would establish the essential element of the crime defined by law; and, that evidence *aliunde* or matters extrinsic of the information are not to be considered.

Accused Abastas and Bacalla, however, point out that there are exceptions to the rule as pronounced by the Supreme Court in the case of *Lorenzo vs. Sandiganbayan (Sixth Division)*¹¹ that, where there are additional facts not alleged in the Information but are admitted or not denied by the prosecution, inquiry into such facts may be allowed where the ground invoked is that the allegations in the Information do not constitute an offense.

Accused Abastas and Bacalla manifest that, because of the haphazard filing of the complaint by the District Collector of the Port of Limay, without any concurrence or conformity by the COC as provided in Section 1138 of the CMTA, they suffered great damage. They contend that the District Collector issued a Mission Order on December 23, 2023 and immediately issued the Warrant of Seizure and Detention (WSD) on December 25, 2023 when the crew had been arrested on Christmas Day. Due to this, accused would have difficulty in presenting proofs of payment and other legal documents validating the legality of the imported rice inasmuch as the seizure was made on a Christmas day.

¹⁰ Records Verification dated October 1, 2025 issued by the Judicial Records Division, Docket – Vol. II.

¹¹ G.R. Nos. 242506-10, September 14, 2022 (Decision).

According to Abastas and Bacalla, Section 1138 of the CMTA was not duly observed in this case because the BOC failed to exercise its power to investigate prior to instituting the criminal case against them before the Department of Justice (DOJ); thus, accused were not afforded due process and the earliest opportunity to present their evidence and defenses, to prove the legitimacy of the imported Vietnamese Rice seized by BOC Port of Limay. Accused point out that, ultimately, their constitutional right to due process was violated.

As recalled by Abastas and Bacalla, the antecedents of this case are as follows:

1. On December 10, 2023, Dios Consumer Goods Trading (DCGT) imported 1,850 MT of Vietnamese Rice 5% broken at the Port of Talisay, Cebu, on board MV Royal 88 wherein the lawful duties and taxes were all paid at the port when the licensed customs broker lodged the importation details in the BOC E2M System on December 6, 2023.
2. On December 11, 2023, DCGT requested to conduct a shipside permit from the BOC, Port of Talisay, Cebu, to unload 1,700 MT from MV Royal 88 to MV SF Omega at Talisay, Cebu, because the BBD Veterinary Supplies Trading and General Merchandise (BBD), represented by its owner, accused Bacalla, manifested its intention to purchase 1,700 MT and to deliver them at its warehouse in Pampanga, while the remaining 150 MT was unloaded from MV Royal 88 to truck and to be delivered in its warehouse in Talisay, Cebu. On same date, DCGT requested clearance for domestic transport with the BPI.
3. On December 12, 2023, BBD expressed its intention to modify its order with finality and the same was changed from 1,700 MT or 34,000 bags of 50kg bags Vietnamese Rice 5% broken to 17,311 bags of 50kg Vietnamese Rice 5% broken and 46,500 bags of 25kg Vietnamese Rice 5% broken.
4. DCGT instructed MV SF Omega to unload the 16,689 bags of 50kg Vietnamese Rice to the trucks leaving the 17,311 bags of 50kg King Grain Vietnamese Rice 5% broken and loaded 46,509 bags of 25kg Top Chef Vietnamese Rice 5% broken truck to vessel MV SF Omega from December 12 to 15, 2023. After such loading, MV SF Omega proceeded to deliver the same to the Port of Limay, Bataan.

5. Upon arrival of MV SF Omega on December 21, 2023 at the Port of Limay, Bataan, the District Collector issued an Alert Order when the crew failed to show proof of evidence of payment of the duties and taxes. Thereafter, the BOC Port of Bataan issued a Mission Order on December 23, 2023 to check the documents and conduct inventory of the rice loaded therein, and on December 25, 2023, the District Collector issued a WSD of the rice and the vessel MV SF Omega.
6. On January 3, 2024, DCGT and BBD filed both a Motion to Quash the WSD issued by the BOC Port of Limay, attaching therewith the proof of payment on the seized sacks of rice and an Addendum to present additional proof of payments on seized imported rice and documents, validating the legality of such importation. In turn, the BOC conducted an investigation, and on February 5, 2024, the BOC Port of Limay ordered to quash the WSD.
7. Thereafter, the decision of the District Collector of the Port of Limay dated February 5, 2024 was automatically reviewed by the COC pursuant to Section 1127 of the CMTA and was affirmed by the latter through the Decision dated February 28, 2024.
8. Meanwhile, on March 26, 2024, the DOJ issued an Order recommending the filing of the Information with the proper court.
9. On March 31, 2024, accused jointly filed a Motion for Reconsideration with prayer to defer the filing of the Information and to reverse the aforesaid Order. As such, the DOJ directed the BOC Port of Limay to file a comment/opposition thereto, which according to the accused, they did not receive any comment but instead received a Warrant of Arrest dated November 21, 2024.
10. On May 7, 2024, the Secretary of Finance affirmed the decision of the COC, which affirmed the decision of the District Collector of the Port of Limay quashing the WSD.
11. On May 17, 2024, the District Collector of the Port of Limay issued a Resolution for the release of the seized sacks of rice.

To support their claims, accused Abastas and Bacalla attached the following documents:

1. Photocopy of the Order dated July 16, 2024, issued by the DOJ, marked as Annex “A”;¹²
2. Photocopy of the Decision dated February 5, 2024, issued by the BOC Office of the Collector of Customs – District Port of Limay, Bataan, marked as Annex “B”;¹³
3. Photocopy of the Disposition Form dated February 23, 2024 of the Appellate Division of the BOC, addressed to the COC, marked as Annex “C”, with attached Decision dated February 28, 2024 signed by COC;¹⁴
4. Photocopy of the letter to the COC dated May 7, 2024, signed by the Secretary of Finance, marked as Annex “D”;¹⁵
5. Photocopy of the Release Order dated May 17, 2024, issued by the Office of the District Collector Port of Limay, marked as Annex “E”;¹⁶ and,
6. Photocopy of the 2nd Indorsement dated November 6, 2024, issued by DOJ Prosecutor General, marked as Annex “F”.

Given the foregoing, accused Abastas and Bacalla maintain that they could not have violated Section 1401 of the CMTA since it was duly proven that the subject imported rice was validly imported as the BOC Port of Limay (1) lifted the WSD dated December 25, 2023; and, (2) ruled that the subjects imported rice were indeed validly imported and that the lawful duties and taxes due thereon were all paid. Additionally, the said decision was affirmed by the COC by way of Automatic Review pursuant to Section 1127 and 1128 of the CMTA.

On the other hand, plaintiff manifests that, in the DOJ Joint Resolution dated November 6, 2024, the Office of the Prosecutor General granted the Motion for Reconsideration filed by accused Calumpang, Ramos, Abastas, and Bacalla, reversing and setting aside the DOJ Resolution dated March 26, 2024 and dismissing the Complaint filed against the accused. According to plaintiff, the approval of the said Resolution was subsequent to both the filing of the *Information* and the corresponding issuance of the warrants of arrest by the Court against accused Calumpang, Ramos, Abastas, and Bacalla.

¹² Annex “A” of Motion to Quash, Docket – Vol. I, pp. 467 to 470.

¹³ Annex “B” of Motion to Quash, Docket – Vol. I, pp. 471 to 477.

¹⁴ Annex “C” of Motion to Quash, Docket – Vol. I, pp. 478 to 497.

¹⁵ Annex “D” of Motion to Quash, Docket – Vol. I, pp. 498 to 500.

¹⁶ Annex “E” of Motion to Quash, Docket – Vol. I, pp. 501 to 502.

***Omnibus Motion (Motions to Quash
or to Dismiss) [for accused
Calumpang and Ramos]***

In the *Omnibus Motion*, accused Calumpang and Ramos assert that the *Information* must be dismissed on the ground that the officer who filed the *Information* had no authority to do so. Particularly, they claim that the complaint was filed with the DOJ without authority from the COC as required under Section 1138 of the CMTA. According to Calumpang and Ramos, the records disclose that no authority was attached to the complaint affidavit.

Despite due notice, plaintiff did not file any comment or opposition to the *Omnibus Motion* of accused Calumpang and Ramos.¹⁷

We resolve.

A motion to quash is the mode by which an accused assails, before entering his plea, the validity of the criminal complaint or the criminal information filed against him for insufficiency on its face in point of law, or for defect apparent on the face of the Information. The motion, as a rule, hypothetically admits the truth of the facts spelled out in the complaint or information. The rules governing a motion to quash are found under Rule 117 of the Revised Rules of Court.¹⁸

Sections 1, 2 and 3, Rule 117 of the Revised Rules of Criminal Procedure, provide:

SECTION 1. *Time to move to quash.* — At any time before entering his plea, the accused may move to quash the complaint or information.

SEC. 2. *Form and contents.* – The motion to quash shall be in writing, signed by the accused or his counsel and shall distinctly specify its factual and legal grounds. The court shall consider no ground other than those stated in the motion, except lack of jurisdiction over the offense charged.

SEC. 3. *Grounds.* — The accused may move to quash the complaint or information on any of the following grounds:

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged;

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¹⁷ Records Verification dated October 1, 2025 issued by the Judicial Records Division, Docket – Vol. II.
¹⁸ *Los Baños vs. Pedro*, G.R. No. 173588, April 22, 2009 (Decision).

- (d) That the officer who filed the information had no authority to do so;
- xxx xxx xxx

Considering that the accused have not yet been arraigned and have yet to enter their plea, their *Motions to Quash* were seasonably filed.

Moreover, both *Motions to Quash* were in writing, signed by the accused's counsel, and distinctly specified the factual and legal grounds that the facts charged in the *Information* do not constitute an offense and that the officer who filed the information had no authority to do so.

Under Section 3(b) of Rule 117 of the Revised Rules of Criminal Procedure, one of the grounds to quash an Information is that the court trying the case has no jurisdiction over the offense charged. Relating this to Section 2 of the same Rule, said ground may be considered by the court even if such was not stated in the motion to quash.

The Court finds merit in the *Motion to Quash* (for accused Abastas and Bacalla) and the *Omnibus Motion* (for accused Calumpang and Ramos).

All accused similarly raised the issue on the lack of approval of the COC for filing the complaint against accused, stating that the District Collector of the Port of Limay issued the WSD on December 25, 2023 and immediately filed its complaint before the DOJ without any referral or authority given by the COC, as required under Section 1138 of the CMTA.

Section 1138 of the CMTA states:

SEC. 1138. *Fraud Investigation and Prosecution.* — **No criminal case for violation of this title shall be instituted without the approval of the Commissioner** pursuant to the provisions of this Act.

The Bureau shall have the power to investigate and institute smuggling cases committed within its jurisdiction: ***Provided, That in case of inquest, the same may be instituted by the apprehending customs officer.*** (*Emphasis and underscoring supplied*)

Apparently, the filing of a complaint for the violation of any provision of the CMTA requires the approval of the COC. On the other hand, in case of inquest, it can be instituted by the apprehending customs officer.

In this case, to support the allegations in the *Information*, the plaintiff submitted the original/certified true copies of the documents for the examination of the Court. One of the documents submitted was a Certified True Copy of the Referral for Inquest dated December 25, 2023.

Since the accused raised the issue of lack of approval from the COC to file the present *Information*, the Court further probed the Referral for Inquest dated December 25, 2023 which revealed that only the first page of the same was submitted while the signature page was missing.¹⁹ Clearly, neither the approval of the COC nor the fact that the apprehending customs officer instituted the same, in case of inquest, can be deduced therefrom.

The approval of the COC or the apprehending customs officer, in case of inquest, is imperative to institute a criminal case for violation of any provision of the CMTA. Such approval is not merely procedural but jurisdictional.

Jurisdiction over the subject matter or offense in a judicial proceeding is conferred by the sovereign authority which organizes the court – it is given only by law and in the manner prescribed by law. It is the power to hear and determine the general class to which the proceedings in question belong.²⁰

In light of the foregoing, the case should be dismissed for failure to comply with Section 1138 of the CMTA. Since compliance with the said Section cannot be determined from the documents, the same results in this Court not having jurisdiction over the offense charged.

Considering that the *Motions to Quash* have been granted based on the aforementioned ground, that the Court trying the case has no jurisdiction over the offense charged, this Court need not dwell on the question of whether the facts charged in the *Information* do not constitute an offense.

Section 3 of Rule 117 of the Revised Rules of Criminal Procedure provides for an exclusive list of grounds. It is sufficient for an *Information* to be quashed, as was in this case, on the basis that the Court trying the case has no jurisdiction over the offense charged.

Even assuming *arguendo* that the Court has jurisdiction over the offense, the Court will still find the dismissal of the case in order.

¹⁹ Referral for Inquest dated December 25, 2023, Docket – Vol. I, p. 180.

²⁰ *Villa Gomez vs. People*, G.R. No. 216824, November 10, 2020 (Decision).

It is axiomatic that a complaint or information must state every single fact necessary to constitute the offense charged; otherwise, a motion to dismiss/quash on the ground that it charges no offense may be properly sustained. The fundamental test in considering a motion to quash on this ground is whether the facts alleged, if hypothetically admitted, will establish the essential elements of the offense as defined in the law.²¹

The established rule is that the character of the crime is not determined by the caption or preamble of the information or from the specification of the provision of law alleged to have been violated; the crime committed is determined by the recital of the ultimate facts and circumstances in the complaint or information.²²

This Court may not consider a situation contrary to that set forth in the criminal complaint or information. Facts that constitute the defense of the accused against the charge under the information must be proved by them during trial. Such facts or circumstances do not constitute proper grounds for a motion to quash the information on the ground that the material averments do not constitute the offense.²³

A motion to quash is a hypothetical admission of the facts alleged in the Information; hence, the general rule is that the court will not consider allegations contrary to those appearing on the face of the Information.²⁴

However, case law also recognizes exceptions to the aforementioned general rule — one of which being a situation where there are additional facts not alleged in the Information but are admitted or not denied by the prosecution. Inquiry into such facts may be allowed where the ground invoked is that the allegations in the Information do not constitute an offense.²⁵

Here, plaintiff manifested the fact that, subsequent to their filing of the *Information* with this Court, the DOJ issued the Joint Resolution dated November 6, 2024 reversing its earlier finding of probable cause to file the present Information. In such Resolution, it was declared that “in all stages of the seizure and forfeiture proceedings, the findings were consistent in concluding that: the **imported rice packages were validly imported; the correct duties were properly paid;** and the documents presented by respondents for the validly imported rice packages match the same cargo that was the subject of the seizure and forfeiture proceedings.” As such, the

²¹ *Wu vs. People*, G.R. Nos. 207220-21, March 16, 2022 (Decision).

²² *Ibid.*

²³ *Wu vs. People*, *supra*.

²⁴ *Lorenzo vs. Sandiganbayan (Sixth Division)*, G.R. Nos. 242506-10, September 14, 2022 (Decision).

²⁵ *Ibid.*

DOJ resolved to dismiss the complaint filed by BOC Port of Limay against accused Calumpang, Ramos, Abastas, and Bacalla.

As the plaintiff did not deny the above DOJ findings of valid importation and proper payment of duties, the Court may then inquire into such facts. In the Decision dated February 5, 2024, issued by the District Collector of Port of Limay, based on its proceedings, it was found that the subject rice packages were validly imported and that there was proper payment of correct duties and taxes over the same. The said Decision was affirmed by the COC and the SOF.

Well-settled is the rule that factual findings of administrative bodies charged with their specific field of expertise, are afforded great weight by the courts, and in the absence of substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.²⁶

Notably, the findings of fact of the BOC, a specialized administrative body charged with the administration and enforcement of customs laws, rules, and regulations, were not disputed by the plaintiff. In fact, the DOJ, in the Joint Resolution dated February 5, 2024, already declared the validity of the subject importation. Consequently, the Court accords great weight to the undisputed findings of fact of BOC.

In fine, the Court finds that the quashal of the present *Information* is warranted.

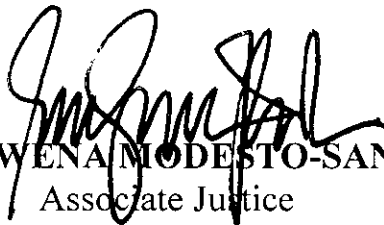
ACCORDINGLY, the **Motion to Quash the Information (For the accused Dioscoro B. Abastas and Alfred Bacalla) and Omnibus Motion (Motions to Quash or to Dismiss)** for accused Peter Paul L. Calumpang and Efren C. Ramos are **GRANTED**.

In view thereof, the **Information** filed on July 8, 2024 for violation of Section 1401(f), in relation to Section 117, of the CMTA, docketed as CTA Crim. Case No. O-1174, is **DISMISSED**.

The cash bail bond posted by accused Abastas and Bacalla in the total amount of ₱400,000.00 is hereby **ORDERED** to be released, subject to the usual accounting procedure and requirements. On the other hand, the surety bail bonds of accused Calumpang and Ramos are hereby **CANCELLED**.

²⁶ *Lumayna vs. Commission on Audit*, G.R. No. 185001, September 25, 2009; *Ocampo vs. Commission on Elections*, G.R. Nos. 136282 & 137470, February 15, 2000.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice