REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

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MALINGAS MULTI - PURPOSE COOPERATIVE,
Petitioner,

CTA Case No. 9150

- versus -

COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS,
Respondent.

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EVERGREEN CEREAL, INC.,
Petitioner,

CTA Case No. 9191, 9192, 9193, 9194, 9195, 9196, 9197 & 9198

- versus -

Members:

DEL ROSARIO, P.J., *Chairperson*
UY, and
MINDARO-GRULLA, JJ.

COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS,
Respondent.

Promulgated:

JUN 11 2019 . 11 32pm

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DECISION

UY, J.:

Before this Court are the consolidated *Petitions for Review* separately filed by Malingas Multi-Purpose Cooperative and by Evergreen Cereal Inc., against the Commissioner of Customs, praying for the reversal, setting aside and nullification of the Decisions of the Commissioner of Customs dated August 7, 2015, October 7, 2015 and October 15, 2015, as well as the respective Orders of the District Collector of Manila International Container Port (MICP), in seizing and forfeiting the subject shipments, and the award

of the amount allegedly held in escrow, after the subject shipments were auctioned off, detailed as follows[1] :

CTA CASE NO.	SEIZURE IDENTIFICATION NO.	AMOUNT HELD IN ESCROW
9150	041-2014, 388-2014, 389-2014, 390-2014	₱8,800,036.65
9191	382-2014	₱2,727,090.91
9192	381-2014	₱1,363,545.45
9193	384-2014	₱1,363,545.45
9194	383-2014	₱2,727,090.91
9195	386-2014	₱ 681,772.73
9196	434-2014	₱1,363,545.45
9197	385-2014	₱4,090,636.36
9198	435-2014	₱ 681,772.73

THE PARTIES

In CTA Case No. 9150, the petitioner is Malingas Multi-Purpose Cooperative (Malingas), a cooperative duly registered and existing under the laws of the Republic of the Philippines, with principal place of business at 244 Lasip Calasiao, Pangasinan.[2]

In CTA Case Nos. 9191 to 9198, the petitioner is Evergreen Cereal Inc. (Evergreen), a corporation duly registered and existing under the laws of the Republic of the Philippines, with principal place of business at 1015 Dagupan St., Tondo, Manila.[3]

Similarly, the respondent in all these consolidated cases is the Bureau of Customs (BOC), represented by respondent Commissioner of Customs (COC). The BOC is an unincorporated government agency attached to the Department of Finance, with address at the Office of the Commissioner, Bureau of Customs, South Harbor, Manila.[4]

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[1] Based on the *Petitions for Review* of the instant consolidated cases.
[2] *Petition for Review,* CTA Case No. 9150
[3] *Petition for Review,* CTA Case Nos. 9191 to 9198
[4] Pars. 15, 29, 37, 44, 58, and 64, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, pp. 577, and 579 to 584, respectively; Parties, *Petition for Review*, Docket (CTA Case No. 9191), p. 13; *Petition for Review*, Docket (CTA Case No. 9193), p. 13; Parties, *Petition for Review*, Docket (CTA Case No. 9194), p. 13; Parties, *Petition for Review*, Docket (CTA Case No. 9195), p. 11; Parties, *Petition for Review*, Docket (CTA Case No. 9197), p. 13; and Parties, *Petition for Review*, Docket (CTA Case No. 9198), p. 11.

THE FACTS

The antecedent Seizure Proceedings at the Bureau of Customs, prior to the filing of the instant consolidated cases, are as follows:

In **CTA Case Nos. 9150**

Seizure Identification No. 041-2014:

On November 13, 2013, a shipment of 15x20' containers said to contain 6,000 bags of White Rice 25% Broken consigned to petitioner Malingas, arrived from Thailand on board the vessel DIMITRIS 0591-045E.[5] The said shipment is covered by Import Entry No. C237530-13.[6] However, the same shipment, upon examination, was found to contain 7,500 bags of White Rice, or an excess of 1,500 bags.[7]

Petitioner Malingas was allowed to release from customs twelve (12) containers of White Rice.[8] Thereafter, the District Collector of Customs, MICP, upon the recommendation of the Intelligence Group (IG), issued a Warrant of Seizure and Detention against Container Nos. TGHU0272243, TEMU3562310, and TEMU3797423, for violation of Section 2530(F) of the Tariff and Customs Code of the Philippines (TCCP), as amended.[9]

Seizure Identification No. 388-2014:

On November 6, 2013, a shipment of 15x20' containers said to contain 6,000 bags of White Rice 25% Broken consigned to petitioner Malingas, arrived from Thailand on board the vessel MAMITSA 0590-

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[5] Par. 1, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 575; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 11. vis-à-vis Par. 1, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 112.

[6] Par. 2, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 575; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 11, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 112.

[7] Par. 3, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 12, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9150) – Vol. I, pp. 112 to 113.

[8] Par. 4, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 7, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 12, vis-à-vis Par. 7, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 113.

[9] Par. 5, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 12, vis-à-vis Par. 8, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 113.

026E.[10] The said shipment is covered by Import Entry No. C231982-13.[11] A year later, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. DRYU2769677, DRYU2576657, and EGHU3020533, for violation of Section 2530(F) of the TCCP, as amended.[12]

Seizure Identification No. 389-2014:

On November 16, 2013, a shipment of 12x20' containers said to contain 9,600 bags of White Rice 25% Broken consigned to petitioner Malingas, arrived from Thailand on board the vessel MAMITSA 0590-026E.[13] The said shipment is covered by Import Entry No. C218759-13.[14] A year later, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. EMCU3370412, EMCU3907796, and HMCU3040368, for violation of Section 2530(F) of the TCCP, as amended.[15]

Seizure Identification No. 390-2014:

On November 27, 2013, a shipment of 14x20' containers said to contain 9,600 bags of White Rice 25% Broken consigned to petitioner Malingas, arrived from Thailand on board the vessel DIMITRIS 0593-046E.[16] The said shipment is covered by Import Entry No. C242214-13.[17] A year later, the MICP District Collector of Customs issued a

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[10] Par. 6, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 10, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 12, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 113.

[11] Par. 7, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 1, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 112.

[12] Par. 8, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 18, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 13, vis-à-vis Par. 18, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 114.

[13] Par. 9, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 20, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 13, vis-à-vis Par. 20, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 115.

[14] Par. 10, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 21, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 13, vis-à-vis Par. 21, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 115.

[15] Par. 11, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 28, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 14, vis-à-vis Par. 28, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 116.

[16] Par. 12, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 30, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 14, vis-à-vis Par. 30, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 116.

[17] Par. 13, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 31, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 15, vis-à-vis Par. 31, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 116.

Warrant of Seizure and Detention against Container Nos. TEMU3451214, EISU3772179, and EGHU3085787, for violation of Section 2530(F) of the TCCP, as amended.[18]

In **CTA Case Nos. 9191 to 9198**

Seizure Identification No. 382-2014 (CTA Case No. 9191):

On November 26, 2013, a shipment of 30x20' containers said to contain 13,200 bags of White Rice 25% Broken consigned to petitioner Evergreen, arrived from Thailand on board the vessel SITC HAIPHONG, under Registry No. SIC-0131.[19] The said shipment is covered by Import Entry No. C225186-13, Bill of Lading No. SITGBKMN014075, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[20] However, the same shipment, upon examination, was found to contain 15,000 bags of White Rice, or an excess of 1,800 bags.[21]

Petitioner Evergreen was only allowed to release from customs 26 containers of White Rice.[22] Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. BMOU2633951, TEMU2263510, TGHU1594769, and BMOU2743579, for violation of Section 2530(F) of the TCCP, as amended.[23]

On October 15, 2014, the MI CP District Collector of Customs issued an Order forfeiting the subject shipment in favor of the

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[18] Par. 14, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 38, *Petition for Review*, Docket (CTA Case No. 9150) – Vol. I, p. 15, vis-à-vis Par. 38, *Answer*, Docket (CTA Case No. 9150) – Vol. I, p. 117.

[19] Par. 16, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9191), p. 13, vis-à-vis Par. 3, *Answer*, Docket (CTA Case No. 9191), p. 80.

[20] Par. 17, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9191), p. 13, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9191), p. 81.

[21] Par. 18, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9191), p. 13, vis-à-vis Par. 5, *Answer*, Docket (CTA Case No. 9191), p. 81.

[22] Par. 19, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 577; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9191), p. 14, vis-à-vis Par. 7, *Answer*, Docket (CTA Case No. 9150), p. 81.

[23] Par. 20, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9191), p. 14, vis-à-vis Par. 9, *Answer*, Docket (CTA Case No. 9191), p. 81.

government.[24] Petitioner Evergreen duly filed its appeal.[25]

Petitioner Evergreen then received, a copy of the Decision dated October 15, 2015 issued by respondent COC, denying it's appeal, and affirming the Forfeiture Order of the MICP District Collector of Customs.[26]

Seizure Identification No. 381-2014 (CTA Case No. 9192):

On November 26, 2013, a shipment of 20x20' containers of White Rice 25% Broken consigned to petitioner Evergreen, arrived from Thailand on board the vessel MOL WISDOM, under Registry No. MOL-0094.[27] The said shipment is covered by Import Entry No. C225270-13, Bill of Lading No. ICS311034, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[28]

Petitioner Evergreen was only allowed to release from customs 18 containers of White Rice. The containers bearing the numbers CAUI3139239 and CLHU3874526 were left at the MICP because of the verbal alert of the IG.[29] Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. CAUI3139239 and CLHU3874526, for violation of Section 2530(F) of the TCCP, as amended.[30]

On October 15, 2014, the MICP District Collector of Customs issued an Order forfeiting the subject shipment in favor of the

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[24] Par. 21, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9191), p. 14, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9191), p. 81.

[25] Par. 21, II-A, Amended Pre-Trial Order dated August 2, 2017, *supra.*

[26] Par. 22, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9191), p. 12, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9191), p. 82.

[27] Par. 23, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9192), p. 13, vis-à-vis Par. 2.1, *Answer*, Docket (CTA Case No. 9192), p. 73.

[28] Par. 24, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9192), p. 13, vis-à-vis Par. 2.2, *Answer*, Docket (CTA Case No. 9192), p. 74.

[29] Par. 25, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9192), p. 14, vis-à-vis Par. 2.6, *Answer*, Docket (CTA Case No. 9192), p. 74.

[30] Par. 26, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9192), p. 14, vis-à-vis Par. 2.8, *Answer*, Docket (CTA Case No. 9192), p. 74.

government. Petitioner Evergreen duly filed its appeal.[31]

Subsequently, on October 15, 2015, respondent COC issued a Decision, denying petitioner Evergreen's appeal, and affirming the Forfeiture Order of the MICP District Collector of Customs.[32]

Seizure Identification No. 384-2014 (CTA Case No. 9193):

On November 26, 2013, a shipment of 20x20' containers of White Rice arrived from Thailand.[33] The said shipment is covered by Import Entry No. C225613-13, Bill of Lading No. ICS311035, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[34] The same shipment, upon examination, was found to contain excess White Rice.[35]

Petitioner Evergreen was only allowed to release from customs 18 containers of White Rice.[36] Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. BMOU2321254 and BMOU2338391, for violation of Section 2530(F) of the TCCP, as amended.[37]

On October 15, 2014, the MICP District Collector of Customs issued an Order forfeiting the subject shipment in favor of the

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[31] Par. 27, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 578; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9192), p. 14, vis-à-vis Par. 2.9, *Answer*, Docket (CTA Case No. 9192), p. 75.

[32] Par. 28, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 576; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9192), pp. 14 to 15, vis-à-vis Par. 2.11, *Answer*, Docket (CTA Case No. 9192), p. 75.

[33] Par. 30, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9193), p. 13, vis-à-vis Par. 3, *Answer*, Docket (CTA Case No. 9193), p. 64.

[34] Par. 31, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9193), p. 13, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9193), p. 65.

[35] Par. 32, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9193), p. 13, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9193), p. 65.

[36] Par. 33, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9193), p. 14, vis-à-vis Par. 8, *Answer*, Docket (CTA Case No. 9193), p. 65.

[37] Par. 34, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9193), p. 14, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9193), p. 65.

government.[38]

Subsequently, petitioner Evergreen received the Decision dated October 15, 2015 issued by respondent COC, denying petitioner Evergreen's appeal, and affirming the Forfeiture Order of the MICP District Collector of Customs.[39]

Seizure Identification No. 383-2014 (CTA Case No. 9194):

On November 26, 2013, a shipment of 30x20' containers of White Rice arrived from Thailand.[40] The said shipment is covered by Import Entry No. C225250-13, Bill of Lading No. SITGBKMN014074, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[41] The same shipment, upon examination, was found to contain excess White Rice.[42]

Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container Nos. BMOU2621020, BHCU3156705, TEMU3220299 and TGHU0876330, for violation of Section 2530(F) of the TCCP, as amended.[43]

On October 15, 2014, the MICP District Collector of Customs issued an Order forfeiting the excess rice shipment in favor of the government.[44]

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[38] Par. 35, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9193), p. 14, vis-à-vis Par. 11, *Answer*, Docket (CTA Case No. 9193), p. 65.

[39] Par. 36, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9193), pp. 14 to 15, vis-à-vis Par. 13, *Answer*, Docket (CTA Case No. 9193), p. 66.

[40] Par. 38, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9194), p. 13, vis-à-vis Par. 3, *Answer*, Docket (CTA Case No. 9194), p. 65.

[41] Par. 39, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9194), p. 13, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9194), p. 65.

[42] Par. 40, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9194), p. 13, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9194), p. 65.

[43] Par. 41, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 579; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9194), p. 14, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9194), p. 65.

[44] Par. 42, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 580; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9194), p. 14, vis-à-vis Par. 11, *Answer*, Docket (CTA Case No. 9194), p. 65.

Subsequently, on October 13, 2015, petitioner Evergreen received the Decision issued by respondent COC, denying petitioner Evergreen's appeal, and affirming the Forfeiture Order of the MICP District Collector of Customs.[45]

Seizure Identification No. 386-2014 (CTA Case No. 9195):

On November 26, 2013, a shipment of 20x20' containers said to contain 8,800 bags of White Rice 25% Broken consigned to petitioner Evergreen arrived from Thailand on board the vessel SITC HAIPHONG, under Registry No. SIC-0131.[46] The said shipment is covered by Import Entry No. C225239-13, Bill of Lading No. SITGBKMN014155, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[47] However, the same shipment was found to contain an excess bags of White Rice.[48] Nevertheless, several containers of White Rice were released to petitioner Evergreen and there were excess bags of rice at the MICP.[49]

Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against Container No. SITU2910455, for violation of Section 2530 (F) of the TCCP, as amended.[50]

On October 15, 2014, the MICP District Collector of Customs issued an Order forfeiting the subject shipment in favor of the

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[45] Par. 43, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9194), p. 15, vis-à-vis Par. 13, *Answer*, Docket (CTA Case No. 9194), p. 66.

[46] Par. 45, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9195), p. 11, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9195), p. 73.

[47] Par. 46, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9195), p. 11, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9195), p. 73.

[48] Par. 47, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9195), p. 11, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9195), p. 74.

[49] Par. 48, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9195), p. 12, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9195), p. 74.

[50] Par. 49, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 581; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9195), p. 12, vis-à-vis Par. 8, *Answer*, Docket (CTA Case No. 9195), p. 74.

government.[51]

Subsequently, on October 7, 2014, respondent COC issued a Decision.[52]

Seizure Identification No. 434-2014 (CTA Case No. 9196):

On December 11, 2013, a shipment of 15x20' containers said to contain 6,600 bags of White Rice 25% Broken consigned to petitioner Evergreen arrived from Thailand on board the vessel DIMITRIS, under Registry No. EGP-0165.[53] The said shipment is covered by Import Entry No. C235937-13.[54]

Two (2) containers bearing numbers BMOU2037280 and DFSU1068518 remained at the MICP.[55] Thereafter, the MICP District Collector of Customs issued a Warrant of Seizure and Detention against the said containers.[56]

The MICP District Collector of Customs issued the Order dated October 15, 2014, forfeiting the subject shipment in favor of the government.[57]

On October 14, 2015, petitioner Evergreen received a copy of the Decision dated October 15, 2015 from respondent COC, denying petitioner Evergreen's appeal and affirming the said forfeiture Order.[58]

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[51] Par. 50, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9195), p. 12, vis-à-vis Par. 9, *Answer*, Docket (CTA Case No. 9195), pp. 74 to 75.

[52] Par. 51, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9195), pp. 12 to 13, vis-à-vis Par. 11, *Answer*, Docket (CTA Case No. 9195), p. 75.

[53] Par. 52, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9196), p. 13, vis-à-vis Par. 1, *Answer*, Docket (CTA Case No. 9196), p. 65.

[54] Par. 53, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9196), p. 13, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9196), p. 73.

[55] Par. 54, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9196), p. 14, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9196), p. 66.

[56] Par. 55, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9196), p. 14, vis-à-vis Par. 8, *Answer*, Docket (CTA Case No. 9196), p. 66.

[57] Par. 56, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9196), p. 14, vis-à-vis Par. 9, *Answer*, Docket (CTA Case No. 9196), p. 66.

Seizure Identification No. 385-2014 (CTA Case No. 9197):

The subject shipment is covered by Import Entry No. C225605-13, Bill of Lading No. EGLV050300790241, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[59] The said shipment, upon examination, was found to contain excess bags of White Rice.[60]

The MICP District Collector of Customs issued a Warrant of Seizure and Detention against the Container Numbers BMOU2022654, BMOU2137334, DRYU2279957, EGHU3132261, EISU3916609 and EMCU3560135, for violation of Section 2530(F) of the TCCP, as amended.[61]

Subsequently, the MICP District Collector of Customs issued the Order dated October 15, 2014, forfeiting the subject shipment in favor of the government.[62]

On October 14, 2015, petitioner Evergreen received a copy of the Decision dated October 7, 2015 from respondent COC, denying petitioner Evergreen's appeal and affirming the said forfeiture Order.[63]

Seizure Identification No. 435-2014 (CTA Case No. 9198):

On November 30, 2013, a shipment of 5x20' containers said to contain 2,200 bags of White Rice 25% Broken consigned to petitioner Evergreen, arrived from Thailand on board the vessel ASIAN

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[58] Par. 57, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 582; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9196), p. 15, vis-à-vis Par. 11, *Answer*, Docket (CTA Case No. 9196), p. 67.

[59] Par. 59, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 583; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9197), p. 13, vis-à-vis Par. 1, *Answer*, Docket (CTA Case No. 9197), p. 66.

[60] Par. 60, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 583; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9197), p. 13, vis-à-vis Par. 5, *Answer*, Docket (CTA Case No. 9197), p. 66.

[61] Par. 61, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 583; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9197), p. 14, vis-à-vis Par. 9, *Answer*, Docket (CTA Case No. 9197), p. 66.

[62] Par. 62, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 583; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9197), p. 14, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9197), pp. 66 to 67.

[63] Par. 63, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 583; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9197), p. 15, vis-à-vis Par. 12, *Answer*, Docket (CTA Case No. 9197), p. 67.

ZEPHYR, under Registry No. SIC-0133.[64] The said shipment is covered by Import Entry No. C229077-13, Bill of Lading No. ICS311037, Import Permit, Notice of Allocation, Certificate of Eligibility, Packing List and Invoice, Certificate of Origin, Phytosanitary Certificate, Certificate of Analysis, Certificate of Fumigation and Certificate of Weight and Quality.[65]

The same shipment, upon examination, was found to contain excess shipment of White Rice.[66] Four (4) containers of White Rice were released to petitioner Evergreen, and excess Five Hundred (500) bags was left at the MICP.[67]

The MICP District Collector of Customs issued a Warrant of Seizure and Detention against petitioner Evergreen's Container No. TRHU2092129, for violation of Section 2530(F) of the TCCP, as amended.[68]

Subsequently, the MICP District Collector of Customs issued the Order dated October 15, 2014, forfeiting the subject shipment in favor of the government, and an appeal was taken therefrom by petitioner Evergreen.[69]

Respondent COC then issued the Decision dated October 7, 2015.[70]

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[64] Par. 65, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 1, *Petition for Review*, Docket (CTA Case No. 9198), p. 11, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9198), p. 67.

[65] Par. 66, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 2, *Petition for Review*, Docket (CTA Case No. 9198), p. 11, vis-à-vis Par. 2, *Answer*, Docket (CTA Case No. 9198), p. 67.

[66] Par. 67, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 4, *Petition for Review*, Docket (CTA Case No. 9198), p. 11, vis-à-vis Par. 4, *Answer*, Docket (CTA Case No. 9198), p. 68.

[67] Par. 68, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 6, *Petition for Review*, Docket (CTA Case No. 9198), p. 12, vis-à-vis Par. 6, *Answer*, Docket (CTA Case No. 9198), p. 68.

[68] Par. 69, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 8, *Petition for Review*, Docket (CTA Case No. 9198), p. 12, vis-à-vis Par. 9, *Answer*, Docket (CTA Case No. 9198), p. 68.

[69] Par. 70, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 9, *Petition for Review*, Docket (CTA Case No. 9198), p. 12, vis-à-vis Par. 10, *Answer*, Docket (CTA Case No. 9198), p. 69.

[70] Par. 71, II-A, Amended Pre-Trial Order dated August 2, 2017, Docket (CTA Case No. 9150) – Vol. I, p. 584; and Par. 11, *Petition for Review*, Docket (CTA Case No. 9198), pp. 12 to 13, vis-à-vis Par. 12, *Answer*, Docket (CTA Case No. 9198), p. 69.

Petitions for Review filed before this Court

Petitioner Malingas filed a *Petition for Review* on September 24, 2015 which case was docketed as **CTA Case No. 9150**; while petitioner Evergreen filed separate *Petitions for Review* on November 13, 2015 which were respectively docketed as **CTA Case Nos. 9191 to 9198.**

Thereafter, respondent COC filed his *Answers* in CTA Case No. 9150 on December 1, 2015;[71] in CTA Case No. 9191 on February 4, 2016;[72] in CTA Case No. 9192 on February 17, 2016;[73] in CTA Case No. 9193 on January 11, 2016;[74] in CTA Case No. 9194 on January 11, 2016;[75] in CTA Case No. 9195 on February 19, 2016;[76] in CTA Case No. 9196 on January 14, 2016;[77] in CTA Case No. 9197 on January 11, 2016;[78] and in CTA Case No. 9198 on February 19, 2016.[79]

The following are, *inter alia*, the special and affirmative defenses interposed by respondent COC in his *Answer* in CTA Case No. 9150: (1) as mandated by Republic Act (RA) 8178 and implemented by the National Food Authority (NFA) Memorandum Circular No. AO-2K13-003, rice importers are required to secure import permits from the NFA for all rice importations coming in and imported into the country; (2) it is undisputed that the subject containers or excess rice importations are without import permit, and as such, and as correctly ordered by the MICP District Collector, the subject excess rice importations are liable for forfeiture under Section 2530(f) of the TCCP, as amended; (3) petitioner Malingas has no authority to import rice in excess of that allowed by the NFA in the corresponding Import Permit, and the excess rice shipments are subject to seizure under Section 2503 of the law; and (4) upon verification of the import documents attached to the respective import entries and submitted with Section 1, Formal Entry Division, MICP, the quantity of rice shipment declared in the Bill of Lading, Import Entries, Packing List, Invoice, are all in excess, and thus, the excess rice importations are considered undeclared items that are *ipso facto* liable for forfeiture under the same Section 2530(f).

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[71] Docket (CTA Case No. 9150) – Vol. I, pp. 112 to 122.
[72] Docket (CTA Case No. 9191), pp. 80 to 99.
[73] Docket (CTA Case No. 9192), pp. 73 to 113.
[74] Docket (CTA Case No. 9193), pp. 64 to 83.
[75] Docket (CTA Case No. 9194), pp. 64 to 83.
[76] Docket (CTA Case No. 9195), pp. 73 to 81.
[77] Docket (CTA Case No. 9196), pp. 65 to 73.
[78] Docket (CTA Case No. 9197), pp. 65 to 84.
[79] Docket (CTA Case No. 9198), pp. 67 to 75.

As for his respective *Answers* in CTA Case Nos. 9191, 9193, 9194 and 9197, respondent COC basically avers the same special and affirmative defenses as follows: (1) petitioner Evergreen has no *locus standi* to question whether the Philippines complied with the World Trade Organization (WTO) Agreement with respect to rice importation quotas; (2) as a private entity, petitioner Evergreen cannot seek to enforce the WTO Agreement regarding the expiration of the Special Treatment on rice importation quotas; (3) the issue regarding the validity of the subject NFA Memorandum Circular is a mere collateral attack which is prohibited; (4) the government is authorized to impose quantitative restrictions on rice importations since the authority of the NFA to issue the subject Memorandum Circular and to require import permits for rice did no automatically cease upon the expiration of the Special Treatment given to the Philippines; (5) respondent COC did not err in forfeiting petitioner's Evergreen's excess rice importations; (6) petitioner Evergreen's reliance on Section 2503 of the TCCP and Customs Administrative Order (CAO) No. 01-2014 is misplaced; (7) forfeiture is in order since the excess shipment is tantamount to prohibited importation; and (8) there is no basis for the amount claimed to be released.

In his *Answers* in CTA Case No. 9192, respondent COC avers the following special and affirmative defenses, to wit: (1) the validity of RA No. 8178 and NFA Memorandum Circular No. AO-02K13-003 vis-à-vis the WTO Agreement on Agriculture cannot be raised in the *Petition*, upon the following grounds: (i) petitioner Evergreen is estopped from assailing the said law and circular, (ii) RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003 are presumed valid and cannot be collaterally attacked in this proceeding, (iii) petitioner Evergreen has no personality to invoke the provisions of the WTO Agreement on Agriculture, the same being reserved only to member-states, and (iv) Philippine courts, such as this Court, have no jurisdiction to declare that the Philippines violated its commitments under the WTO, and in the process, invalidate RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003; (2) the WTO General Council granted the Philippines' request for extension of its special treatment of rice, for the period 1 July 2012 to 30 June 2017, making the issue moot and academic; and (3) the rice shipment found in excess of the quantity allowed under petitioner Evergreen's NFA Import Permit are importations considered absolutely prohibited and contrary to law, hence, should be forfeited to the government.

With regard to his *Answers* in CTA Case Nos. 9195, 9196 and 9198, respondent COC alleges substantially similar special and affirmative defenses, to wit: (1) petitioner Evergreen has no cause of action against respondent COC; (2) the subject containers of rice are

in excess of the quantity allowed in petitioner Evergreen's Import Permit and beyond the rice allocation authorized by the NFA, hence, the same are prohibited importations, which are liable for forfeiture under Section 2530(f) of the TCCP, as amended; (3) as mandated in RA No. 8178 and implemented by NFA Memorandum Circular No. AO-2K13-003, rice importers are required to secure import permits from the NFA for all rice importations; and (4) the excess rice importations are considered undeclared items that must be *ipso facto* forfeited for violation of Section 2503 of the TCCP, as amended.

Thereafter, respondent COC filed an *Ex-Parte Motion for Consolidation and Suspension of Pre-Trial* on February 5, 2016, praying that CTA Case Nos. 9191, 9193, 9194, 9196 and 9197 be consolidated with CTA Case No. 9150 and that the submission of pre-trial briefs and the scheduled pre-trial conferences be suspended.[80]

Petitioners also filed an *Ex-Parte Motion for Consolidation and Suspension of Pre-Trial* on April 14, 2016 in CTA Case No. 9198, praying for the consolidation of CTA Case Nos. 9192, 9195 and 9198 with CTA Case Nos. 9150, 9191, 9193, 9194, 9196, and 9197 and the suspension of the submission of pre-trial briefs and the scheduled pre-trial conference for CTA Case Nos. 9195 and 9198.[81]

The above consolidation was then approved pursuant to the Resolutions dated May 17, 2016[82] and June 22, 2016.[83] This Court also set the cases for pre-trial conference on August 11, 2016 and directed the parties to file their respective *Consolidated Pre-Trial Briefs*.

Respondent filed his *Consolidated Pre-Trial Brief* on July 27, 2016,[84] while petitioners filed their *Consolidated Pre-Trial Brief* on August 9, 2016.[85]

On August 11, 2016, pre-trial conference was conducted wherein the parties agreed that they will confer with each other to formulate a summary of admissions and stipulations of facts and issues to be incorporated in the *Joint Stipulation of Facts and Issues* (JSFI). This Court noted that the parties agreed to adopt the issue stated in respondent's *Consolidated Pre-Trial Brief*, *"whether respondent erred in rendering the assailed Decisions declaring the*

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[80] Docket – Vol. I (CTA Case No. 9150), pp. 130 to 137.
[81] Docket (CTA Case No. 9198), pp. 100 to 104.
[82] Docket – Vol. I (CTA Case No. 9150), pp. 204 to 208.
[83] Docket – Vol. I (CTA Case No. 9150), pp. 235 to 238.
[84] Docket – Vol. I (CTA Case No. 9150), pp. 239 to 254.
[85] Docket – Vol. I (CTA Case No. 9150), pp. 257 to 290.

excess rice importations as prohibited importations subject to forfeiture under the Tariff and Customs Code of the Philippines (TCCP)." This Court ordered that if no JSFI is submitted, the parties shall be deemed to have waived their right to enter into admissions and stipulations of facts, and the Court shall issue a Pre-Trial Order on the basis of the pre-trial conference proceedings. Should the Court find that the issue to be resolved is purely legal, the parties shall be directed to file their respective memoranda in support of their respective positions.[86]

On September 21, 2016, respondent filed a *Manifestation and Motion*, stating that the parties could not stipulate on certain facts, which precludes them from filing the JSFI. Thus, respondent prays that the Pre-Trial Order be issued based on the August 11, 2016 pre-trial proceedings.[87]

On October 13, 2016, the Court issued a Resolution stating that a Pre-Trial Order be issued based on the proceedings on August 11, 2016. The Court then ordered the submission of the judicial affidavits of the parties' intended witnesses and set the initial presentation of petitioners' evidence on February 21, 2017.[88]

The Court issued the Pre-Trial Order on February 22, 2017,[89] but later on, petitioners filed their *Motion to Amend Pre-Trial Order* on March 24, 2017.[90]

During the hearing held on the June 6, 2017, respondent COC clarified that the sole issue to be resolved in the instant case is purely legal and with respect to the factual matters of the petition, the same are admitted.[91]

Thus, in the Resolution dated July 7, 2017, the Court granted petitioners' *Motion to Amend Pre-Trial Order*, and set the hearing for the initial presentation of petitioners' evidence on August 29, 2017.[92] The Court then issued an Amended Pre-Trial Order on August 2, 2017.[93]

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[86] Order dated August 11, 2016, Docket – Vol. I (CTA Case No. 9150), pp. 301 to 303.
[87] Docket – Vol. I (CTA Case No. 9150), pp. 328 to 332.
[88] Docket – Vol. I (CTA Case No. 9150), pp. 338 to 339.
[89] Docket – Vol. I (CTA Case No. 9150), pp. 455 to 483.
[90] Docket – Vol. I (CTA Case No. 9150), pp. 501 to 507.
[91] Docket – Vol. I (CTA Case No. 9150), pp. 537 to 538.
[92] Docket – Vol. I (CTA Case No. 9150), pp. 547 to 551.
[93] Docket – Vol. I (CTA Case No. 9150), pp. 574 to 605.

Subsequently, on September 25, 2017, the Court issued a Resolution partially granting petitioners' *Motion for Issuance of a Production Order*.[94] However, on December 14, 2017, the Court issued a Resolution stating that the presentation of the documents enumerated in the Resolution dated September 25, 2017 was deemed waived and petitioners were ordered to submit their *Formal Offer of Evidence*.[95]

Thereafter, petitioners filed their *Formal Offer of Evidence* on February 2, 2018,[96] to which respondent filed his comment on March 2, 2018.[97] After examination of the records, the Court issued the Resolution dated April 23, 2018,[98] denying all of petitioners' documentary exhibits, and ordering the parties to file their respective memoranda within thirty (30) days from receipt of the said Resolution.

Petitioners filed their *Memorandum* on May 28, 2018,[99] while respondent COC filed his *Memorandum* on June 20, 2018.[100] Accordingly, on July 4, 2018, the Court declared the consolidated cases submitted for decision.[101]

Hence, this Decision.

THE ISSUE

The lone issue for this Court's resolution is as follows:

> "Whether respondent erred in rendering the assailed Decisions declaring the excess rice importations as prohibited importations subject to forfeiture under the Tariff and Customs Code of the Philippines (TCCP)."[102]

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[94] Docket – Vol. I (CTA Case No. 9150), pp. 628 to 636,
[95] Docket – Vol. I (CTA Case No. 9150), pp. 642 to 643.
[96] Docket – Vol. II (CTA Case No. 9150), pp. 669 to 683.
[97] Docket – Vol. II (CTA Case No. 9150), pp. 824 to 831.
[98] Docket – Vol. II (CTA Case No. 9150), pp. 841 to 845.
[99] Docket – Vol. II (CTA Case No. 9150), pp. 852 to 873.
[100] Docket – Vol. II (CTA Case No. 9150), pp. 877 to 923.
[101] Resolution dated July 4, 2018, Docket – Vol. II (CTA Case No. 9150), pp. 926 to 927.
[102] Issue, Amended Pre-Trial Order dated August 2, 2017, Docket – Vol. I (CTA Case No. 9150), pp. 584 to 585.

Petitioners' arguments:

Petitioners allege that respondent COC interpreted RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003 to mean that the importation of rice still requires an import permit from the NFA.

According to petitioners, while RA No. 8178 expressly states that the policy of tarrification and the consequent repeal of other laws did not include those pertaining to rice, *"which will continue to have quantitative import restrictions,"* it is not the only relevant law in relation to quantitative restrictions on rice. The provision of the WTO Agreement, a treaty to which the Philippines is a party, is also relevant. Specifically, following its commitment under the GATT[103]-WTO, the Philippines is bound to comply with Part III, Article 4 of the Agreement on Agriculture (GATT), which provides that *"members shall not maintain, resort to, or revert to any measures of the kind (quantitative import restrictions, discretionary import licensing, etc.) which have been required to be converted into ordinary customs duties, except as otherwise provided for in Article 5 and Annex 5."*

Petitioners maintain that the Philippines was initially granted the privilege to impose quantitative restrictions on rice from 1995 to 2005, which was extended, after negotiation, until June 30, 2012. Petitioners submit that during this period, the Philippines through the NFA can regulate the entry of rice by imposing non-tariff barriers. But after June 30, 2012, petitioners believe that the Philippines is bound to convert the quantitative restrictions to ordinary customs duties with respect to rice importations.

In the instant consolidated cases, records would show that the rice shipments arrived in Manila after the expiration and before the renewal of the Special Treatment of rice under Annex 5 of the WTO. Accordingly, they are freely importable and need not be covered by any import permit.

Petitioners add that the subject shipment was duly declared as imported rice and covered by an import permit, negating that it is undeclared. Likewise, there is allegedly no misdeclaration because the subject shipment is exactly the same as the one declared in the import entry, which is imported rice. Rather, the instant cases are of misdeclaration as to quantity because the subject shipment has a variance in quantity only.

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[103] General Agreement on Tariffs and Trade.

Petitioners also insist that misdeclaration in quantity which is not more than thirty percent (30%) is subject to payment of penalty. Petitioners claim that the instant case warrants only the imposition of surcharge because the percentage difference is only twelve percent (12%), well under the thirty percent (30%) limit.

Respondent's counter-arguments:

On the other hand, respondent COC counter-argues that since petitioners admitted that their rice shipments exceeded the quantity indicated in their import permits, they have no cause of action against respondent.

Respondent also points out that petitioners' interpretation of Section 2503 of the TCCP and CAO No. 01-2014 is erroneous.

Furthermore, respondent believes that the validity of RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003 *vis-à-vis* the WTO Agreement on Agriculture cannot be raised in this petition.

According to respondent, petitioners are estopped from assailing the validity of RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003. Respondent also avers that RA No. 8178 and NFA Memorandum Circular No. AO-2K13-003 are presumed valid and cannot be collaterally attacked in this proceeding; and that petitioners have no personality to invoke the provisions of the WTO Agreement on Agriculture, the same being reserved only to member-states.

Respondent likewise claims that the WTO General Council granted the Philippines' request for extension of its Special Treatment of rice, for the period July 1, 2012 to June 2017, making the issue moot and academic.

Lastly, respondent asserts that petitioners failed to overturn the presumption of regularity of respondent's decision and to discharge their burden; hence, they are not entitled to the relief prayed for.

THE COURT'S RULING

The Court finds for petitioners.

These consolidated cases assail the separate decisions of respondent COC, affirming the order of the MICP District Collector in

forfeiting the alleged excess rice importations of petitioners. In the said decisions, respondent COC held that the excess rice importations are liable for forfeiture because the subject excess rice importations are without import permit, citing as basis, RA No. 8178, as implemented by NFA Memorandum Circular No. AO-2K13-003, in relation to Section 2530(f) of the TCCP, as amended, the pertinent portions of which respectively provide as follows:

Section 2 of RA No. 8178:

"SECTION 2. *Declaration of Policy.* – It is the policy of the State to make the country's agricultural sector viable, efficient and globally competitive. The State adopts the use of tariffs in lieu of non-tariff import restrictions to protect local producers of agricultural products, **except in the case of rice**, which will continue to have quantitative restrictions." *(Emphasis supplied)*

Section 4 of NFA Memorandum Circular No. AO-2K13-003:

"Starting April 10, 2013, all licensed NFA-licensed importers may apply to import by submitting the following documents to NFA Central Office, as basic requirements:

xxx xxx xxx

4.1. Letter of Intent detailing the importer's volume of rice to be imported, its quality specifications and source country. The LOI shall also indicate the complete address, contact details and email address of the applicant;

4.2. Valid NFA Import License valid until 31 December 2013."

Section 2530(f) of the TCCP, as amended:

"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 subject to forfeiture:

xxx xxx xxx

> (f) Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were intended to be used as instruments in the importation or the exportation of the former."

In the same decisions, respondent COC considered the supposed excess rice importation as undeclared items that are *ipso facto* liable for forfeiture for violation of Section 2503(f) of the TCCP, as amended, which reads as follows:

> "SEC. 2503. *Undervaluation, Misclassification and Misdeclaration in Entry.* – xxx any misdeclaration or undeclared imported articles/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."

We disagree with respondent COC.

As a brief background, in 1994, the Philippines joined WTO as a founding member thereof, via the signing of the *Agreement Establishing the World Trade Organization* (which includes certain Multilateral Trade Agreements, such the *General Agreement on Tariffs and Trade* [GATT] and *Agreement on Agriculture*), through then Secretary of the Department of Trade and Industry, Secretary Rizalino Navarro, and after the adoption by the Philippine Senate of Resolution No. 97.[104]

By virtue of the said membership of the Philippines in the WTO, certain restrictions on the entry of agricultural and food products into the country were either reduced, removed, or made subject to tariff instead. Specifically, Article XI of the 1994 GATT requires the general elimination of Quantity Restrictions (QRs); while Article XIII of the 1994 GATT entails non-discriminatory application of such restrictions. Thus, as a rule, no QRs are allowed to be imposed by any WTO member in its country.

Nevertheless, Article 15 of the WTO *Agreement on Agriculture (on Special and Differential Treatment)* provides that developing member countries, such as the Philippines, shall have the flexibility to

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[104] Refer to *Tañada, et al. vs. Angara, et al.*, G.R. No. 118295, May 2, 1997.

implement reduction commitments over a period of up to ten (10) years. Furthermore, any extension of the Special Treatment can be negotiated, pursuant to Section B(8) of Annex 5; Special Treatment with Respect to Paragraph 2 of Article 4, WTO *Agreement on Agriculture*. Consequently, this Special Treatment temporarily permitted the Philippines to impose QRs on the importation of rice from the years 1995 to 2005.

With reference to, and consistent with, the WTO *Agreement*, RA No. 8178, otherwise known as the *"Agricultural Tarrification Act"*, was enacted on March 28, 1996, amending Presidential Decree No. 4, thereby giving power to the National Grains Authority, now the NFA, *"to establish rules and regulations governing the importation of rice and to license, impose and collect fees and charges for said importation for the purpose of equalizing the selling price of such imported rice with normal prevailing domestic prices"* and to *"undertake direct importation of rice or it may allocate import quotas among certified and licensed importers, and the distribution thereof through cooperatives and other marketing channels, at prices to be determined by the Council regardless of existing floor prices and the subsidy thereof, if any, shall be borne by the National Government."*

In 2006, pursuant to Article 4.2 and Section B of Annex 5 of the Agreement, the Special Treatment of the Philippines for rice was extended from July 1, 2005 to June 30, 2012. It was not until July 14, 2014 when the General Council of the WTO issued the *Decision on Waiver Relating to Special Treatment for Rice of the Philippines*, wherein the above-stated Special Treatment was extended until June 30, 2017.

In the meantime, on March 22, 2013, the NFA issued Memorandum Circular No. AO-2K13-03-003, providing that rice importers are required to secure import permits from the NFA for all rice importations, essentially imposing QRs on rice.

In this case, the subject rice importations were made on November 6, 13, 16, 26, 27, 30, 2013, and December 11, 2013. Thus, at the time of the said rice importations, while the NFA Memorandum Circular No. AO-2K13-03-003 was already extant, there has yet no extended Special Treatment for rice.

The crux of the controversy then is on whether or not RA No. 8178 in relation to the said NFA Memorandum Circular No. AO-2K13-03-003 may be used as legal bases for respondent COC to consider the subject excess rice importations as having no import permits

and/or as undeclared items, which are subject to forfeiture under the law.

We answer in the negative.

In *Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III, et al.*,[105] the Supreme Court said:

> "Under the 1987 Constitution, international law can become part of the sphere of domestic law either by **transformation** or **incorporation**. The *transformation method* requires that an international law be transformed into a domestic law through constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.
>
> Treaties become part of the law of the land through *transformation* pursuant to Article VII, Section 21 of the Constitution which provides that '[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate.' Thus, treaties and conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts." *(Underscoring and italics supplied)*

Based on the foregoing, treaties are transformed into municipal or domestic laws after undergoing the constitutional process of having the same concurred in by at least two-thirds of the members of the Senate.

In this case, the *WTO Agreement,* including the Multilateral Trade Agreements attached thereto, was concurred in by the Senate through Resolution No. 97.[106] Consequently, the said Agreements became "a part of the law of the land" or were transformed into municipal or domestic laws.[107] Such being the case, WTO *Agreement*, with the said Multilateral Trade Agreements, attains the same force and effect as that as any other statute, such as RA No. 8178.

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[105] G.R. No. 173034, October 9, 2007.
[106] Refer to *Tañada, et al. vs. Angara, et al.*, G.R. No. 118295, May 2, 1997.
[107] *Id.*

As a corollary, RA No. 8178 may be considered as a reference statute to the WTO *Agreement* and the Multilateral Trade Agreements attached thereto.

Statutes which refer to other statutes and make them applicable to the subject for legislation are called "reference statutes".[108] These statutes are frequently used to avoid encumbering the statute books by unnecessary repetition, and they have frequently been recognized as an approval method of legislation, in the absence of constitutional restrictions.[109] The adoption of an earlier statute by reference makes it as much as a part of the latter act as though it had been incorporated at full length.[110]

It is not hard to discern that RA No. 8178 referred to, and made applicable, the WTO *Agreement* (which necessarily includes the above-stated *Agreement on Agriculture*), as shown in the following provisions thereof, to wit:

> "SEC. 3. *Definition of Terms.* – The following definitions apply to the terms used in this Act:
>
> xxx xxx xxx
>
> (c) 'Bound rate' refers to maximum limits on tariffs on products **committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act.**
>
> (d) 'In-quota Tariff Rate' refers to the tariff rates for minimum access volumes **committed by the Philippines to the World Trade Organization (WTO) under the Uruguay Round Final Act.**
>
> (e) 'Minimum Access Volume' refers to the volume of a specific agricultural product that is allowed to be imported with a lower tariff as committed by the Philippines **to the World Trade Organization (WTO) under the Uruguay Round Final Act.**
>
> xxx xxx xxx
>
> "SEC. 5. *Amendment.* – Subparagraph (xiii), paragraph (1) Section 6 of Presidential Decree No. 4

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[108] *Primicias vs. Ocampo, et al.*, G.R. No. L-6120, June 30, 1953.
[109] *Ibid.*
[110] *Ibid.*

(National Grains Authority Act), as amended, is hereby further amended to read as follows:

xxx xxx xxx

'In the exercise of this power, the Council after consultation with the Office of the President shall first certify to a shortage of rice that may occur as a result of a short-fall in production, a critical demand-supply gap, a state of calamity or other verified reasons that may warrant the need for importation: ***Provided*, That this requirement shall not apply to the importation of rice equivalent to the Minimum Access Volume obligation of the Philippines under the WTO.** xxx.'" *(Emphases supplied)*

Furthermore, it is noteworthy that the general elimination of the QRs on food and agricultural products into the Philippines contemplated under the GATT were adopted in RA No. 8178, under Section 4 thereof, which reads as follows:

"SEC. 4. *Repeal.* – **The following laws and all other laws or provisions of law prescribing quantitative import restrictions or granting government agencies the power to impose such restrictions on agricultural products, except rice, are hereby repealed**:

(1) Republic Act No. 1296, entitled: 'An Act to Prohibit the Importation of Onions, Potatoes, Garlic, and Cabbages, Except for Seedling Purposes, and to Provide Penalties for the Violation Thereof';

(2) Republic Act No. 2712, entitled: 'An Act to Prohibit the Importation of Coffee';

(3) Presidential Decree No. 1297, as amended, entitled: 'Centralizing the Importation of Ruminants for Breeding, Slaughter and Beef';

(4) Paragraph 10 of Section 23 of Republic Act No. 7607, entitled: 'An Act Providing a Magna Carta for Small Farmers';

(5) Paragraph (a) of Section 15 of Republic Act No. 7308, entitled: 'Seed Industry Development Act';

> (6) Section 4 of Republic Act No. 4155, as amended, entitled: 'An Act Promote and Strengthen the Virginia Tobacco Industry'; and
>
> (7) Presidential Decree No. 1483, entitled: 'Authorizing the Importation of Foreign Cigar Leaf Tobacco for Blending Purposes.'"

With the foregoing, it is without doubt that RA No. 8178 adopted the WTO Agreement, including the Multilateral Trade Agreements attached thereto. Relative thereto, it must be stated that the adoption of an earlier statute by reference makes it as much as a part of the latter act as though it had been incorporated at full length.[111] In addition, one of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or two laws so that each shall be effective.[112]

Clearly, RA No. 8178 should be read in relation to the WTO Agreement, with the said Multilateral Trade Agreements, which already forms part of Philippine laws.

As previously mentioned, pursuant to the WTO Agreement, WTO member countries like the Philippines are **prohibited from imposing QRs on imported products**. Nevertheless, a Special Treatment is accorded to certain countries, allowing them to impose discretionary import licensing as a matter of exception to the rule.

In this regard, the Philippines, by way of exception, applied for and was allowed to enjoy Special Treatment from the years 1995 to 2005, or for ten (10) years, and a further extension of seven (7) years until June 30, 2012. In other words, the Philippines was allowed to impose discretionary import licensing until **June 30, 2012**. Before the expiration of the Special Treatment on June 30, 2012, the Philippines requested for another extension. However, the extension was granted only on **July 24, 2014** through the *Decision on Waiver Relating to Special Treatment for Rice of the Philippines*, wherein the above-stated Special Treatment was extended until June 30, 2017.

Thus, on the basis of the provisions of the WTO Agreement, there was no need to secure import permit from the NFA at the time petitioners imported the subject rice shipments in November 6, 13, 16, 26, 27, 30, 2013, and December 11, 2013, since the 7-year

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[111] *Primicias vs. Ocampo, et al., supra.*
[112] *Valera vs. Tuason, Jr., et al.*, G.R. No. L-1276, April 30, 1948.

extension lapsed after June 30, 2012 and the Special Treatment was only reinstated on July 24, 2014.

The inevitable conclusion then is that between July 1, 2012 until July 24, 2014, when no Special Treatment for rice was in place under treaty, there was no need to secure import permits from the NFA to import rice. Correspondingly, since at the time of the subject importations, it was legal for petitioners to import rice without need of import permits, the seizure and forfeiture proceedings conducted by the Bureau of Customs were without legal basis, neither under RA No. 8178, nor under NFA Memorandum Circular No. AO-2K13-03-003.

Such being the case, the Court finds that the subject rice shipments in the instant consolidated cases should not be considered as illegal or prohibited by law.

As for petitioners' prayer for the award of the amounts allegedly held in escrow after respondent COC had auctioned off the subject shipments, petitioners failed to present evidence to support the award of the said amounts.

WHEREFORE, in light of the foregoing considerations, the consolidated *Petitions for Review* separately filed by petitioners Malingas and Evergreen are **PARTIALLY GRANTED**. Accordingly, the respective Orders of the District Collector in seizing and forfeiting the subject shipments and the separate Decisions of respondent COC affirming the same are **REVERSED** and **SET ASIDE**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice
Chairperson, 1st Division