

Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

**PEARL RIVER ENTERPRISES and
JOCARLMARK TRADING,**

Petitioners,

C.T.A. Case No. 7121

Members:

- versus -

**Castaneda, Jr., Chairperson
Uy, and
Palanca-Enriquez, II.**

**SECRETARY OF AGRICULTURE
and COMMISSIONER OF CUSTOMS,**

Respondents.

Promulgated:

OCT 04 2005 *g. Solisario*

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RESOLUTION

For resolution of this Court are:

- 1.) petitioners' "Motion for Leave to Admit Supplemental Petition" filed on June 9, 2005;
- 2.) respondents' Comment (On the Supplemental Petition dated June 2, 2005) filed on July 19, 2005; and
- 3.) respondents' Motion to Dismiss, filed on August 10, 2005.

In their Motion to Dismiss, respondents averred that the present petition which assailed the decision of respondent Secretary of Agriculture imposing special safeguard duty (SSG *for brevity*) on imported onions under Harmonized System (H.S.) Code 0703.1000 has become moot and academic

since the respondent Commissioner of Customs had issued Customs Memorandum Order (CMO) No. 28-2005, dated July 6, 2005 lifting the SSG duty on onion under H.S. Code 0703.1000, pursuant to Department Order No. 3 series of 2005 dated June 27, 2005. The aforesaid CMO effectively revoked CMO No. 18-2005, dated April 13, 2005, which reinstated the SSG duty, pursuant to Department Order No. 1.

CMO No. 28-2005 reads:

Republic of the Philippines
Department of Finance
Bureau of Customs
Manila 1099

July 6, 2005

Customs Memorandum Order
No. 28-2005

Subject: Special Safeguard Duty on Onions
Under H.S. 0703.10.00

Pursuant to Department Order No. 3 Series of 2005 dated June 27, 2005 transmitted to this Bureau through the 1st Indorsement dated July 4, 2005 by the Department of Finance thru Undersecretary MANUEL P. BONOAN, the Special Safeguard (SSG) Duty on Onion under H.S. Code 0703.10.00 is hereby LIFTED.

This Order takes effect immediately and revokes CMO No. 18-2005 dated April 13, 2005.

(sgd.) Alberto D. Lina
Commissioner

The Court finds merit in the motion.

The relief sought in the instant Petition for Review is the nullification or reversal of the Decision of respondent Secretary of Agriculture on the

imposition of SSG duties and ordering the Commissioner of Customs to desist from collecting the said additional duty. Hence, pursuant to CMO 28-2005 dated July 6, 2005, issued by respondent Commissioner of Customs, the instant case has become moot and academic, as there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits (*Ocampo v. HRET*, 432 SCRA 144, 150; *Enrile v. Senate Electoral Tribunal*, 428 SCRA 472, 477).

In view of the above conclusion, We find no need to resolve petitioners' Motion for Leave to Admit Supplemental Petition and respondents' Comment thereto.

WHEREFORE, premises considered, respondents' "Motion to Dismiss" is hereby **GRANTED**, and the present Petition for Review is hereby **DISMISSED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


ERLINDA P. UY
Associate Justice


OLGA-PALANCA-ENRIQUEZ
Associate Justice