

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

L.T.J.S. STORE, Represented by CTA *EB* NO. 2563
its Owner/Proprietor MR. (CTA Case No. 10557)
ANTONIO DE JESUS SILVA,
Petitioner, *Present:*

-versus-

DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, JJ.

**HON. DISTRICT COLLECTOR
OF CUSTOMS, MICP, S Access
Road, North Harbor, Port Area,
Tondo, Manila; and HON.
COMMISSIONER OF CUSTOMS,
REY LEONARDO B. GUERRERO,
Ground Floor, OCOM Bldg., 16th
Street, South Harbor, Port Area,
Manila,**

Promulgated:

JUL 27 2023

Respondents.

[Signature] 1:37 p.m.

X- - - - - X

DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*¹ filed by petitioner L.T.J.S. Store (petitioner) under Section 3 (b), Rule 8² of the Revised Rules of the Court of Tax Appeals (RRCTA),³

¹ *En Banc (EB)* Docket, pp. 1-17.

² SEC. 3. *Who may appeal; period to file petition.* – ... (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a *petition for review* within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the *petition for review*.

³ A.M. No. 05-11-07-CTA, November 22, 2005.

[Signature]

DECISION

CTA EB No. 2563 (CTA Case No. 10557)

L.T.J.S. Store, represented by its Owner/Proprietor Mr. Antonio De Jesus Silva vs. Hon. District Collector of Customs, Port of MICP, North Harbor, Port Area Manila; and Hon. Rey Leonardo Guerrero, Commissioner of Customs, South Harbor, Port Area, Manila

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assailing the Resolution dated December 3, 2021 (assailed Resolution) of the Court's First Division (Court in Division) in CTA Case No. 10557, which denied, among others, petitioner's *Motion for Reconsideration of Resolution of Dismissal* for lack of merit. Petitioner seeks the reversal of the assailed Resolution and the reinstatement of its Petition for Duty and Tax Refund before the Court in Division.

THE PARTIES

Petitioner is a single proprietorship business establishment engaged in the importation and marketing of rice, with principal address at Lot 30, Block 11, Phase 2, Sto. Niño Village, Tunasan, Muntinlupa City.⁴

Respondent District Collector of Customs is the subordinate of respondent Commissioner of Customs (COC) Rey Leonardo Guerrero,⁵ head of the Bureau of Customs (BOC), a government agency tasked to enforce the Customs Modernization and Tariff Act (CMTA) with office address at the Ground Floor, OCOM Building, Muelle de San Francisco, Port Area, Manila.

THE FACTS

The antecedent facts, as narrated by the Court in Division,⁶ are as follows:

On June 25, 2021, petitioner filed the present Petition for Duty and Tax Refund praying that the Office of the District Collector of Customs and the Office of the Commissioner of the Bureau of Customs (BOC) headed by Hon. Rey Leonardo Guerrero be enjoined to refund the over-charged Duty/Tax that said respective offices allegedly unduly collected from petitioner in the total amount of ₱1,924,522.60.

On February 7, 2021, petitioner declared in its BOC Single Administrative Document that it was importing 26,000 bags of rice from Vietnam with customs duty and fees amounting to ₱9,198,517.50.



⁴ Par. 1, The Parties, *Petition for Review*, EB Docket, p. 1.

⁵ Par. 2, The Parties, *Petition for Review*, EB Docket, p. 2.

⁶ Resolution dated July 28, 2021, Division Docket, pp. 30-35.

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On February 10, 2021, the subject shipment of rice from the exporter arrived in the Philippines and the BOC issued an Assessment Notice No. L 59528 assessing petitioner a total assessed amount of ₱11,123,040.10. On even date, petitioner paid the total assessed amount of ₱11,123,040.10 as evidenced by its Statement of Settlement of Duties and Taxes.

Petitioner alleges that, on March 4, 2021, it filed its Protest and Appeal for Duty and Tax Refund with the Office of the Commissioner of the BOC demanding and praying for the grant of appropriate duty/tax relief and easement from bearing the duty/tax burdens arising out of excessive charges of customs duty/tax on its rice shipments either by way of refund, drawback or credit, reduction, adjustment, settlement or compromise, relative to its rice importations. Due to the alleged inaction of respondent, petitioner filed the present Petition pursuant to Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), as amended. It avers that there is no appeal and it has no other adequate remedy in the ordinary course of law.

On July 28, 2021, the Court issued a Resolution⁷ dismissing outright petitioner's Petition for Duty and Tax Refund for lack of jurisdiction and for lack of proper verification. Its *fallo* reads:

WHEREFORE, in view of the foregoing, petitioner's **Petition for Duty and Tax Refund** is hereby **DISMISSED** for lack of jurisdiction and for lack of proper verification pursuant to Section 3, Rule 42 of the Rules of Court in relation to Section 1, Rule 42 of the Rules of Court.

SO ORDERED.

On October 15, 2021, petitioner filed *via* registered mail a *Formal Entry of Appearance*,⁸ *Motion for Reconsideration of Resolution of Dismissal*,⁹ *Motion for Leave to Admit Amended Petition for Review of Protest and Appeal for Duty and Tax Refund*,¹⁰ with attached *Amended Petition for Review of Protest and Appeal for Duty and Tax Refund*.¹¹



⁷ Division Docket, pp. 30-35.

⁸ Division Docket, p. 50.

⁹ Division Docket, pp. 51-58. Received by the Court in Division on November 2, 2021.

¹⁰ Division Docket, p. 36.

¹¹ Division Docket, pp. 37-42.

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On October 19, 2021, petitioner filed through registered mail a *Memorandum*¹² dated October 19, 2021, with attached Affidavits of Service,¹³ both dated October 15, 2021.

On December 13, 2021, the Court in Division issued the assailed Resolution¹⁴ denying petitioner's motion for reconsideration. The dispositive portion reads:

WHEREFORE, premises considered, the Court resolves to:

1. **DENY** petitioner's "Motion for Reconsideration of Resolution of Dismissal" for lack of merit;
2. **DENY** petitioner's "Motion for Leave to Admit Amended *Petition for Review* of Protest and Appeal for Duty and Tax Refund" for lack of merit;
3. **NOTE** petitioner's Memorandum dated October 19, 2021, and the Affidavits of Service both dated October 15, 2021 attached thereto; and,
4. **NOTE** the "Formal Entry of Appearance" filed by Atty. Manuel R. Castro of Castro, Talaboc and Associates Law Office.

Henceforth, let copies of all court issuances and the other parties' submissions be also furnished to petitioner's counsel at the following address: **Malate Adriatico Grand Residence, No. 1415, M. Adriatico Street, Ermita, Manila.**

SO ORDERED.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Undaunted, petitioner filed through registered mail the instant *Petition for Review* on December 28, 2021, which was received by the Court on February 17, 2022.



¹² Division Docket, p. 44.

¹³ Division Docket, pp. 45 and 47.

¹⁴ *EB* Docket, pp. 28-36; Division Docket, pp. 61-69.

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On March 18, 2022, the Court *En Banc* issued a Resolution¹⁵ ordering petitioner to submit a duplicate original or certified true copy of the assailed Resolution, compliant Affidavit of Service and Verification and Certification of Non-Forum Shopping and directing respondents to comment on the *Petition for Review*, both within ten (10) days from notice.

On March 25, 2022, petitioner filed *via* registered mail its *Compliance [Re: Court Order Promulgated March 18, 2022]*,¹⁶ which the Court received on April 7, 2022.

Upon records verification on April 7, 2022,¹⁷ it is reported that respondents failed to file their comment on the *Petition for Review*.

In the Resolution dated May 5, 2022,¹⁸ the Court noted petitioner's *Compliance [Re: Court Order Promulgated March 18, 2022]* and submitted the case for decision.

Meanwhile, on October 7, 2022, petitioner's counsel Atty. Manuel R. Castro filed a *Notice of Withdrawal of Counsel*,¹⁹ which the Court noted in a Minute Resolution dated October 11, 2022²⁰ and petitioner filed a *Manifestation*²¹ that was noted in the Resolution dated January 4, 2023.²²

On November 10, 2022, the Office of the Solicitor General posted *via* registered mail an *Entry of Appearance*²³ as counsel of record for respondents. The Court noted the same in its Minute Resolution dated November 22, 2022.²⁴

On January 5, 2023, a *Formal Entry of Appearance*²⁵ was filed by Atty. Camille S. Palma as counsel for petitioner, which the Court noted in a Minute Resolution dated January 9, 2023.²⁶



¹⁵ *EB* Docket, pp. 20-23.

¹⁶ *EB* Docket, pp. 25-39.

¹⁷ *EB* Docket, p. 24.

¹⁸ *EB* Docket, pp. 42-43.

¹⁹ *EB* Docket, pp. 45-46.

²⁰ *EB* Docket, p. 49.

²¹ *EB* Docket, pp. 47-48.

²² *EB* Docket, pp. 57-58.

²³ *EB* Docket, pp. 50-52. Received by the Court on November 17, 2022.

²⁴ *EB* Docket, p. 55.

²⁵ *EB* Docket, pp. 59-60.

²⁶ *EB* Docket, p. 61.

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ISSUES

Petitioner assigns the following errors allegedly committed by the Court in Division:

I.

THE HONORABLE PRESIDING JUSTICE ROMAN G. DEL ROSARIO, ASSOCIATE JUSTICE CATHERINE T. MANAHAN AND ASSOCIATE JUSTICE MARIAN IVY F. REYES-FAJARDO OF THE FIRST DIVISION OF THE CTA GRAVELY ERRED IN DISMISSING THE PETITIONER'S PETITION FOR DUTY AND TAX REFUND FOR (a) LACK OF JURISDICTION AND (b) LACK OF PROPER VERIFICATION PURSUANT TO SECTION 3, RULE 42 OF THE RULES OF COURT IN RELATION TO SECTION 1, RULE 42 OF THE RULES OF COURT.

II.

THE HONORABLE PRESIDING JUSTICE ROMAN G. DEL ROSARIO, ASSOCIATE JUSTICE CATHERINE T. MANAHAN AND ASSOCIATE JUSTICE MARIAN IVY F. REYES-FAJARDO OF THE FIRST DIVISION OF THE CTA GRAVELY ERRED IN DENYING PETITIONER'S "MOTION FOR RECONSIDERATION OF RESOLUTION OF DISMISSAL FOR LACK OF MERIT.

III.

THE HONORABLE PRESIDING JUSTICE ROMAN G. DEL ROSARIO, ASSOCIATE JUSTICE CATHERINE T. MANAHAN AND ASSOCIATE JUSTICE MARIAN IVY F. REYES-FAJARDO OF THE FIRST DIVISION OF THE CTA GRAVELY ERRED IN DENYING PETITIONER'S "AMENDED PETITION FOR REVIEW OF PROTEST AND APPEAL FOR DUTY AND TAX REFUND" FOR LACK OF MERIT.

Petitioner's arguments

On the first assigned error, petitioner argues that the Court has jurisdiction over the inaction of the COC under Section 7(9)(2) [sic] of Republic Act (RA) No. 9282 and Section 1136, Chapter 9 on Judicial Proceedings of Title XI on Administrative and Judicial Procedures of the CMTA. For over a year, petitioner alleges that respondents took no action on the disputed issues of duty and tax valuations or assessments and the demanded refund. As such, petitioner filed its Petition for Duty and Tax Refund²⁷ in conformity with Rule 8 of the RRCTA.

²⁷ Division Docket, pp. 6-9.



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As regards the second assigned error, the erroneous inscription of the affiant's name as Orlando C. Manuntag in the Verification and Certification of Non-Forum Shopping attached to the Petition for Duty and Tax Refund was due to inadvertence. Petitioner asks the Court to dispense with the strict compliance of the procedural rule in the broader interest of justice.

Anent the third assigned error, petitioner insists that the unjustifiable inaction and unfair delay of respondents forced it to raise the matter by filing a Petition for Duty and Tax Refund with the Court in Division on June 25, 2021. Petitioner alleges that the affiant in this case, is a party in interest with sufficient knowledge and belief to swear to the truth of the Petition for Duty and Tax Refund allegations as the owner/proprietor. Petitioner claims that this case is under exceptional circumstances so the prudent manner of judicially treating it is by giving an opportunity for petitioner to remedy its careless misgivings or inadvertent shortcomings so as not to defeat the administration of justice.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* is not impressed with merit.

The Court En Banc has jurisdiction over the instant Petition for Review.

On December 3, 2021, the Court in Division denied, among others, petitioner's *Motion for Reconsideration of Resolution of Dismissal* through a Resolution,²⁸ a copy of which was allegedly received by petitioner on December 18, 2021.²⁹

As provided under Section 3(b), Rule 8³⁰ of the RRCTA, petitioner had fifteen (15) days from receipt of the assailed *Resolution* on December 18, 2021, or until January 3, 2022,³¹ to file a *Petition for Review* before the Court *En Banc*.

²⁸ *Supra*, note 14.

²⁹ Par. 1, Timeliness of the Petition, *Petition for Review*, EB Docket, p. 2. A copy of the Resolution dated December 3, 2021 was served to petitioner thru courier on December 17, 2021, Division Docket, p. 60 (back).

³⁰ *Supra*, note 2.

³¹ The 15th day fell on a Sunday, January 2, 2022; hence, the next working day is January 3, 2022.



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On December 28, 2021, petitioner filed this Petition for Review within the reglementary period.³²

Having settled that the Petition was timely filed, We likewise rule that the Court En Banc has validly acquired jurisdiction to take cognizance of this case under Section 2(a)(1), Rule 4 of the RRCTA. We now discuss the merits.

The Court in Division did not err in dismissing petitioner's Petition for Duty and Tax Refund and denying its Motion for Reconsideration.

Anent the *first* and *second* assigned errors, petitioner claims that the members of this Court's First Division gravely erred in dismissing its Petition for Duty and Tax Refund for *lack of jurisdiction* and for *lack of proper verification* and in denying its Motion for Reconsideration of Resolution of Dismissal for lack of merit.

Petitioner insists that the Court has jurisdiction over the instant case, that it has exclusive appellate jurisdiction to review the inaction of the COC, that respondents took no action on the disputed issues of duty and tax valuations or assessments and the demanded refund, and that the COC's inaction is already a decision by itself. As such, it filed the Petition for Duty and Tax Refund³³ in conformity with Rule 8 of the RRCTA.

Petitioner's contentions are the same arguments raised in its Motion for Reconsideration of Resolution of Dismissal, which have been amply considered, weighed, and resolved by the Court in Division in the assailed Resolution.

Thus, We reiterate in brief the Court in Division's pronouncement on the matter, *viz.*:



³² *Supra*, note 1.

³³ Division Docket, pp. 6-9.

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To begin with, even if the Court relaxes the rule on submission of a proper Verification and excuses petitioner's failure to comply with Section 4, Rule 7 of the Rules of Court, as amended, petitioner's Petition for Duty and Tax Refund filed on June 25, 2021 must still be dismissed **for lack of jurisdiction.**

... ..

Thus, Section 9 of RA No. 9282 (or Section 11 of RA No 1125, as amended) invoked by petitioner to insist that the Court has jurisdiction over the COC's inaction, must be read together with Section 7 (or Section 7 of RA No. 1125, as amended) thereof. Section 7 of RA No. 9282, reads:

"Section 7. Section 7 of the same Act is hereby amended to read as follows:

'Sec. 7. Jurisdiction.- The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

... ..

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, ... where the National Internal Revenue Code provides a specific period of action, in which case the *inaction* shall be deemed a denial;

... ..

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

... ..

Applying the aforementioned rule in statutory construction, the inaction referred to in Section 9 of RA No. 9282 must be taken to refer exclusively to the inaction of the Commissioner of Internal Revenue (CIR) on protest in cases of disputed assessment, among others, as provided for in Section 228 of the National Internal Revenue Code of 1997, as amended. No similar provision appears in the CMTA, specifically allowing appeals from any inaction of the COC.



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Interestingly, Section 1136 of CMTA is clear and categorical in stating that **it is the ruling and decision of the COC which may be appealed to the CTA, viz.:**

“SEC. 1136. Review by the CTA.- Unless otherwise provided in this Act or by any other law, **the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA**, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA. Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the *ruling or decision* of the Commissioner or the Secretary of Finance shall be final and executory.” (*Boldfacing supplied*)

The Court thus reiterates its disquisition in the assailed Resolution:

“After careful evaluation of the allegations in the present Petition for Duty and Tax Refund, **this Court finds that it lacks jurisdiction over the subject matter thereof.**

The Court of Tax Appeals (CTA) is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction. The jurisdiction of the CTA regarding liability for customs duties, fees and other money charges is provided under Section 7(a)(4) of Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, which provides:

... ..

It is clear from the afore-cited provisions that the CTA in Division shall exercise exclusive original jurisdiction to review by appeal **decisions of the COC** in cases involving liability for custom duties, fees or other money charges, seizure, detention, or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs.

In the present case, however, an examination of the allegations in the Petition for Duty and Tax Refund shows that **the COC has yet to render a decision on petitioner's Protest and Appeal for Duty and Tax Refund filed on March 4, 2021.** The filing of the Petition for Duty and Tax Refund is premised on the alleged inaction of the COC.



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Inaction by the COC on cases involving liability for custom duties, fees or other money charges is not one of the subject matters upon which the CTA exercises jurisdiction. Thus, the Court lacks jurisdiction over the subject matter of the Petition. (Additional boldfacing supplied)

Similarly, Section 3 of Rule 4 of the RRCTA states:

SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:

- (a) Exclusive original over or appellate jurisdiction to review by appeal the following:

... ..

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

The CTA may only take cognizance of cases falling within its jurisdiction as enumerated under Section 7 of R.A. 9282, and the alleged inaction of the COC is not one of them.

Moreover, under Sections 3(a) and 4(a), Rule 8 of the RRCTA, an appeal from the decision or ruling of the COC shall be taken to the Court by filing before it a *petition for review* as provided in Rule 42 of the Rules of Court, to wit:

SEC. 3. *Who may appeal; period to file petition.* – (a) **A party adversely affected** by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or **by a decision or ruling of the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. ...



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SEC. 4. *Where to appeal; mode of appeal.* – (a) **An appeal from** a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, **the decision or ruling of the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, **shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court.** The Court in Division shall act on the appeal. (*Emphasis supplied*)

Indeed, it is the *decision* or *ruling*, not the *inaction* of the COC, that is appealable to the CTA.

Thus, petitioner's claim that respondent's unjustifiable *inaction* and unfair delay forced it to file a Petition for Duty and Tax Refund with the Court in Division on June 25, 2021, is without merit. While exhaustion of administrative remedies is not necessary where there is unreasonable delay or official inaction that will irretrievably prejudice petitioner,³⁴ We find the said *exception* not applicable as petitioner failed to allege and substantiate the material facts surrounding the supposed "unjustifiable inaction and unfair delay" of respondents in acting on its protest and appeal. Moreover, the Petition failed to show whether the pertinent procedures for dispute settlement under the CMTA, as discussed below, have been violated by respondents.

Accordingly, We uphold the Court in Division's dismissal of petitioner's Petition for Duty and Tax Refund for lack of jurisdiction and the denial of petitioner's Motion for Reconsideration.

Nonetheless, even if the Court in Division had jurisdiction over respondents' inaction, the case would still not prosper because of petitioner's failure to comply with the requirements under Section 2, Rule 6 of the RRCTA, in relation to Section 2 Rule 42 of the Revised Rules of Court.



³⁴ *Ejera v. Merto, et al.*, G.R. No. 163109, January 22, 2014; *Rocamora v. RTC-Cebu*, G.R. No. 65037, November 23, 1988, citing *Gravador v. Mamigo, et al.*, G.R. No. L-24989, July 21, 1967.

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Section 2, Rule 6 of the RRCTA, mandates that the *petition for review* shall state, among others, the Court's jurisdiction, a statement of facts, issues, and reasons relied upon, to wit:

SEC. 2. *Petition for review; contents.* – **The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision.** The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition. (*Emphasis supplied*)

Relative thereto, Section 4, Rule 8 of the RRCTA provides that an appeal from the *decision or ruling* of the COC shall be governed by Rule 42 of the Rules of Court, *viz.:*

SEC. 4. *Where to appeal; mode of appeal.* – (a) **An appeal from** a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, **the decision or ruling of the Commissioner of Customs**, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, **shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court.** The Court in Division shall act on the appeal. (*Emphasis supplied*)

In turn, Sections 2 and 3, Rule 42 of the Revised Rules of Court, provide for the form and contents of the petition and its *dismissal* for failure to comply with the requirements, to wit:

SEC. 2. *Form and contents.* — **The petition** shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and **shall** (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) **indicate the specific material dates showing that it was filed on time**; (c) **set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal**; (d) be **accompanied by clearly legible duplicate**



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originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

... ..

SEC. 3. *Effect of failure to comply with requirements.* — **The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. (*Emphasis supplied*)**

Based on the foregoing, a *petition for review* filed before the Court in Division shall contain allegations showing its jurisdiction, a concise statement of the complete facts, a summary statement of the issues involved in the case, the reasons or arguments relied upon for the review of the challenged decision, and the specific material dates showing that the petition was filed on time.³⁵ Failure to comply with any of the requirements regarding the contents of and the documents that should accompany the petition shall be sufficient ground for its dismissal.³⁶

For better appreciation, We quote below the contents of the Petition for Duty and Tax Refund, consisting of 3 pages, filed by petitioner before the Court in Division:

“PETITION FOR DUTY AND TAX REFUND

PETITIONER, L.T.J.S. STORE, herein represented by its Owner and Proprietor, MR. ANTONIO DE JESUS SILVA, and to this Honorable COURT OF TAX APPEALS, most respectfully states:

1. That Petitioner, is a Proprietorship Store duly registered under the laws of the Republic...
2. That, on March 4, 2021, Petitioner has tried to exhaust possible administrative remedy by submitting his Protest and Appeal for Duty and Tax Refund to the Office of the Hon. Commissioner REY LEONARDO GUERERRO of the

³⁵ Section 2, Rule 6 of the RRCTA; Section 2, Rule 42 of the Revised Rules of Court.

³⁶ Section 3, Rule 42 of the Revised Rules of Court.



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Bureau of Customs at his Office at South Harbor, Port Area, Manila, earnestly demanding and praying to grant unto the herein Petitioner/Appellant the appropriate duty/tax relief and easement from bearing the duty/tax burdens arising out of the excessive charges of customs duty/tax on its rice shipments either by way of refund, drawback or credit, reduction, adjustment, abatement, settlement, or compromise, relative to its rice importations. ...

3. That on separate dates, Petitioner had requested and presented to the Respondents its notices of payments under protests against the valuation and collection made by the Respondent MICP Collection District Officer of the related shipments pointing out the customs duty and tax upon its rice shipments effected and imposed by the MICP Collection District Officer, that do not conform with the applicable Transaction Value System – Method One as mandated by law under Sec. 701, Chapter 1 Title VII of RA No. 10863 - the Customs Modernization and Tariff Act, mandating that the basis of valuation relative thereto shall be the price actually paid or payable for the goods, and not unduly upon the basis of Reference Value when the goods are sold out for export to the Philippines and adjusted accordingly with the conditions as set forth under the aforecited Section 701, which are evidently excessively, unfairly, unjustly, and inequitably charged. Hereunder is a recapitulation of the related valuation particulars:

Item #	Arrival Date of Shipment from Exporter	Date of the Protest Received by the Bureau of Customs	Bill of Lading Number	Entry Number	Particulars of Vessel Boarded	Details of goods shipped from supplier To importing Consignee	Customs Duty* inappropriately imposed based on Reference Value/mt.	Customs Duty** For Consignee based on Transaction Value per GATT/Per Sec. 701 Chap. 1 RA 10863	Over-charged Amount of Duty Collected and Disputed by Consignee/ Petitioner
1.	Feb. 10, 2021	Mar. 4, 2021	#1490 4060 75	C- 38044	YM CERTAIN TY 002B Reg.#YM T0005-21	26,000 bags @25kgs/ bag Vietnam White Rice	P11,123,040.10	P9,198,517.50	P1,924,522.60

4. That, despite of the fact of a palpable lapse of the intervening period, the herein Petitioner remain to be adversely affected by the shackles of the inaction of the Respondents on the disputed or questioned issues of duty/tax valuations or assessments, and on the demanded or claimed refund of the excessive charges of customs duty/tax upon the rice shipments of the Petitioner, not taking any action for just the request of the Petitioner, even just by way of a drawback or credit, adjustment, reduction, or abatement, neither even just by settlement or compromise; hence, substantially by such cause of the inaction of the Respondents, the Petitioner deems it fitting for now to file before this Honorable Court this

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Petition in pursuance to Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals, as amended;

5. That there is no appeal, nor has the Petitioner any other practical, expedient, plain, speedy, and adequate remedy in the ordinary course of law.

WHEREFORE, Petitioner prays that after due cause and consideration, the Honorable Office of the District Collector of Customs, and the Honorable office of the Commissioner of the Bureau of Customs headed by the Hon. REY LEONARDO GUERERRO, be enjoined to effect the speedy refund of the over-charged Duty/Tax that its respective offices have caused to be unduly collected from the Petitioner in the grand total amount of ONE MILLION NINE HUNDRED TWENTY FOUR THOUSAND FIVE HUNDRED TWENTY TWO & 60/100ths PESOS (Php1,924,522.60), Philippine Currency as herein above-recapitulated and shown in paragraph 3.”

A cursory reading of the above Petition for Duty and Tax Refund reveals that it has no allegation of the Court’s jurisdiction, no statement of material dates showing that it was filed on time, no statement of the issue/s that puts forth the questions of fact or law to be considered by the Court, no argument or reason for the allowance of the appeal was adduced, no jurisprudence cited, and no certified true copies of the assailed judgments or final order. It also failed to attach a copy of its purported March 4, 2021 Protest and Appeal for Duty and Tax Refund filed with respondent COC.³⁷

Clearly, petitioner failed to comply with the requirements on form and contents under Section 2, Rule 6 of the RRCTA, in relation to Section 2, Rule 42 of the Revised Rules of Court, and such failure is sufficient ground for the dismissal of its Petition before the Court in Division.

It is settled that the right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law.³⁸ Thus, the legal requirements must be strictly complied with, and deviation from the Rules cannot be tolerated.³⁹



³⁷ Annexes “1” to “13”, Petition for Duty and Tax Refund, Docket, pp. 10-27.

³⁸ *Boardwalk Business Ventures, Inc. v. Villareal*, G.R. No. 181182, April 10, 2013; *Fenequito, et al. v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012; *Producers Bank of the Philippines v. Honorable Court of Appeals, et al.*, G.R. No. 126620, April 17, 2002.

³⁹ *Baniqued v. Ramos*, G.R. No. 158615, March 4, 2005.

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More, the Petition did not state whether petitioner followed the pertinent procedures for dispute settlement under the CMTA, to wit:

TITLE I
PRELIMINARY PROVISIONS

CHAPTER 2
GENERAL AND COMMON PROVISIONS

... ..

SEC. 114. *Right of Appeal, Forms and Ground.* – **Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.**

An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.

The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal.

TITLE XI
ADMINISTRATIVE AND JUDICIAL PROCEDURES

CHAPTER 2
PROTEST

SEC. 1106. *Protest* – **When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.**

Subject to the approval of the Secretary of Finance, the Commissioner shall provide such rules and regulations as to the requirement for payment or nonpayment of the disputed amount and in case of nonpayment, the release of the importation under protest upon posting of sufficient security.



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SEC. 1107. *Protest Exclusive Remedy in Protestable Case.* – In all cases subject to protest, the interested party who desires to have the action of the District Collector reviewed, shall file a protest as provided in Section 1106 of this Act, otherwise the action of the District Collector shall be final and conclusive.

SEC. 1108. *Form and Scope of Protest.* – **A protest shall be filed in accordance with the prescribed rules and regulations promulgated under this section.** It shall specify the particular decision or ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

... ..

SEC. 1110. *Decision in Protest.* – **When a protest is filed in proper form, the Commissioner shall render a decision within thirty (30) days from receipt of the protest.** In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary. (*Emphasis supplied*)

Implementing Section 114, Chapter II, Title I of the CMTA is Customs Administrative Order (CAO) No. 02-2020.⁴⁰ Its pertinent provisions relative to dispute settlement and protest arising from valuation are as follows:

SEC. 6. *Dispute Settlement Arising from Customs Valuation.*

6.1. Upon lodgment of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the dutiable value of the goods pursuant to Section 707 of the CMTA. **If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment, and finally to the District Collector.**

... ..



⁴⁰ Dispute Settlement and Protest, April 4, 2020.

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6.5. The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.

6.6. In case the ruling of the Commissioner is adverse to the importer, he may seek reconsideration or appeal the ruling in accordance with this CAO.

SEC. 10. *Protest.*

10.1. **The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment.⁴¹ Otherwise, the action of the District Collector shall be final and conclusive.⁴²**

10.2. A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

10.3. **When a protest is filed in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.**

SEC. 11. *Motion for Reconsideration.* The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, may, within fifteen (15) calendar days, from receipt of the ruling, file a Motion for Reconsideration with the Commissioner.⁴³

SEC. 12. *Finality of the Decision.* Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the ruling of the Commissioner shall be final and executory.⁴⁴

⁴¹ CMTA, Title XI, Chapter 2, Section 1106.

⁴² CMTA, Title XI, Chapter 2, Section 1107.

⁴³ CMTA, Title XI, Chapter 9, Section 1136.

⁴⁴ *Id.*



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Section 13. *Appeal*. An importer aggrieved by the decision of the Commissioner may appeal said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner.⁴⁵ (*Emphasis supplied*)

From the foregoing, if the importer, like petitioner, disagrees with the valuation of the customs officer, it may elevate the matter to the principal appraiser, and thereafter to the Chief, Formal Entry Division, then to the Deputy Collector for assessment, and finally to the District Collector.

The aggrieved importer adversely affected may appeal by way of written protest to respondent COC within fifteen (15) days from receipt of the adverse ruling of the District Collector or when payment is made as a result of the adverse ruling within fifteen (15) days from such payment.⁴⁶ Otherwise, the action of the District Collector shall be final and conclusive.⁴⁷

When a protest is filed in proper form, respondent COC shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the District Collector shall be deemed affirmed if respondent COC fails to act on the same.⁴⁸ If the ruling of respondent COC is adverse to the importer, it may file a motion for reconsideration with respondent COC within fifteen (15) calendar days from receipt of the ruling or appeal the ruling to the CTA within thirty (30) days from receipt of the adverse decision or final order of the respondent COC.

In this case, petitioner claims that on March 4, 2021, it tried to exhaust possible administrative remedy by submitting its Protest and Appeal for Duty and Tax Refund (Protest) to the office of respondent COC at South Harbor, Port Area, Manila. It did not mention in the Petition that the March 4, 2021 Protest with respondent COC was made within 15 days from receipt of the adverse ruling of the District Collector or from payment as a result of the adverse ruling.⁴⁹ Nothing in the petition intimates that a protest was made to the District Collector. In sum, We have no way to determine if the March 4, 2021 Protest was timely filed.⁵⁰

⁴⁵ *Id.*, in relation to Rule 41, Section 3 of the Rules of Court and *Neypes v. Court of Appeals*, G.R. No. 141524, September 14, 2005.

⁴⁶ Section 10.1, CAO No. 02-2020.

⁴⁷ *Id.*

⁴⁸ Section 10.3, CAO No. 02-2020.

⁴⁹ Section 10.1, CAO No. 02-2020.

⁵⁰ *Id.*

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Nevertheless, even if petitioner seasonably filed a protest with the concerned officers as laid down in the CMTA and CAO No. 02-2020, such that there is a supposed ruling issued by the District Collector that was “deemed affirmed” due to respondent COC’s inaction within 30 days from receipt of petitioner’s Protest and Appeal for Duty and Tax Refund on March 4, 2021, or until April 3, 2021, the Court in Division would still have no jurisdiction over the Petition for being time-barred.

Under Section 13 of CAO No. 02-2020, petitioner may appeal to the CTA the COC’s deemed affirmed ruling of the District Collector within 30 calendar days from April 3, 2021, or until May 3, 2021. However, Supreme Court (SC) Administrative Circular (AC) No. 29-2021⁵¹ dated April 30, 2021, physically closed all courts from May 3 to 14, 2021, suspended the filing and service of pleadings, and resumed the latter after seven (7) calendar days from the physical reopening of all courts on May 17, 2021 under SC AC No. 33-2021⁵² dated May 14, 2021. Thus, petitioner had seven days from May 17, 2021, or until May 24, 2021, to file its *Petition for Review*.

Hence, even if petitioner properly filed a *Petition for Review* instead of a Petition for Duty and Tax Refund, the Court in Division would still dismiss the same for having been filed out of time on June 25, 2021, or 32 days late.

The Court in Division did not err in denying petitioner’s Amended Petition for Review of Protest and Appeal for Duty and Tax Refund.

Anent the *third* assigned error, petitioner claims that the members of this Court’s First Division gravely erred in denying its “Amended *Petition for Review* of Protest and Appeal for Duty and Tax Refund” (Amended Petition) for lack of merit.

Petitioner claims that this case is under exceptional circumstances so the prudent manner of judicially treating it is by giving an opportunity for petitioner to remedy its careless misgivings or inadvertent shortcomings so as not to defeat the administration of justice.

⁵¹ RE: WORK ARRANGEMENTS IN COURTS ON 13 – 14 MAY 2021.

⁵² RE: COURT OPERATIONS STARTING 17 MAY 2021.

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A perusal of the Amended Petition shows that it still suffers from the same infirmities discussed earlier despite the amendment.

It cannot be over-emphasized that one who seeks to avail of the right to appeal must play by the rules.⁵³ The rules governing pleadings and practice before appellate courts must be complied with as they were designed to assist the appellate court in accomplishing its tasks and, overall, to enhance the orderly administration of justice.⁵⁴

Petitioner cannot come before this Court to seek refuge based on an unfounded claim that this case is “under such exceptional circumstance”⁵⁵ while at the same time flouting the basic ground rules in filing an appeal.

Hence, even if the Court in Division admits the Amended Petition, it would also be dismissed for lack of jurisdiction, insufficiency in form and substance, and being time-barred.

While We commiserate with petitioner and are touched by its plea, We cannot grant the relief it seeks as the foregoing circumstances leave the Court without a choice but to warrant the dismissal of its case.

WHEREFORE, the *Petition for Review* is **DENIED** for lack of merit. The Resolution dated December 3, 2021 of the Court’s First Division in CTA Case No. 10557, is **AFFIRMED**.

SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice

⁵³ *Mejillano v. Lucillo*, G.R. No. 154717, June 19, 2009, citing *Enriquez v. Court of Appeals*, G.R. No. 140473, January 28, 2003.

⁵⁴ *Neplum, Inc. v. Orbeso*, G.R. No. 141986, July 11, 2002; *De Liano v. Hon. Court of Appeals*, G.R. No. 142316, November 22, 2001.

⁵⁵ Par. 1, *Petition for Review*, EB Docket, p. 15.

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MA. BELEN M. RINGPIS-LIBAN

Associate Justice



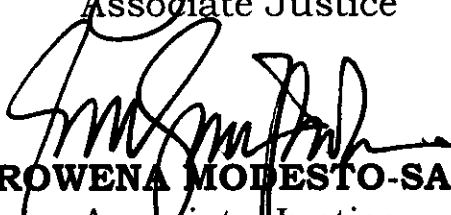
CATHERINE T. MANAHAN

Associate Justice



JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice

ON LEAVE

MARIAN IVY F. REYES-FAJARDO

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice



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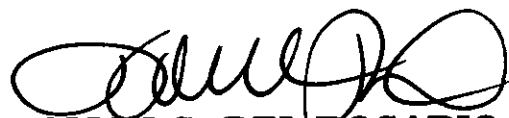
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CERTIFICATION

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 case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO

Presiding Justice

