

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

EN BANC

GOLDMINE RICE MARKETING
represented by its Proprietor
MR. ORLANDO C. MANUNTAG,
Petitioner,

CTA EB NO. 2617
(CTA Case No. 10559)

Present:

-versus-

HON. DISTRICT COLLECTOR
OF CUSTOMS, Port of Manila
Int'l. Container Terminal
(MICT) S Access Road, North
Harbor, Port Area, Tondo,
Manila, and HON. REY
LEONARDO B. GUERRERO,
Commissioner of Customs,
G/F, OCOM Bldg. 16th St.,
South Harbor, Port Area,
Manila,

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

Respondents.

Promulgated:

AUG 14 2023

3:40pm

X- - - - -

- - - - - X

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*¹ filed by petitioner Goldmine Rice Marketing under Section 3 (b), Rule 8² of the Revised Rules of the Court of Tax Appeals (RRCTA),³ assailing the Resolution dated April 21, 2022⁴ of the Court's First Division (Court in Division) in CTA Case. No. 10559, and praying that the assailed Resolution be reconsidered and set aside, and its case be allowed to further proceed to its judicial determination.⁵

¹ EB Docket, pp. 1-8.

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.

⁴ Division Docket, pp. 169-173.

⁵ Prayer, *Petition for Review*, EB Docket, p. 6.

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THE PARTIES

Petitioner is a proprietorship business establishment duly registered with the Department of Trade and Industry (DTI) with office at Lot 13, Block 17, Unit 1 Blessed Building, Marcos Alvarez Avenue, Talon Singko, Las Piñas City 1747, where it may be served with summons and other court processes.⁶

Respondents District Collector of Customs and Commissioner of Customs (COC) Rey Leonardo Guerrero⁷ is the 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 AND THE PROCEEDINGS

On February 3, 2021 and February 11, 2021, petitioner declared in its BOC Single Administrative Documents that it was importing 9,600 bags of Vietnam White Rice from Vietnam, 20,800 bags of Broken White Rice from Myanmar, and 30,000 bags of Broken White Rice from Vietnam with dutiable value amounting to ₱9,689,904.40, ₱14,519,068.12, and ₱30,280,950.00, respectively, hence, Temporary Assessment Notices were also issued in the amount of ₱3,392,746.40, ₱5,092,577.84, and ₱10,599,612.50, respectively.⁸

On February 5, 2021 and February 11, 2021, the shipments arrived in the Philippines and were assessed the amounts of ₱4,184,088.56, ₱6,861,347.96, and ₱13,072,556.75 as evidenced by their Statements of Settlement of Duties and Taxes.⁹

On June 25, 2021, petitioner filed a Petition for Duty and Tax Refund¹⁰ with the Court in Division. Petitioner alleged in the said petition that it had filed a protest which was received by the BOC on March 4, 2021. However, respondent has not acted on such protest. Thus, the filing of the Petition for Duty and Tax Refund.¹¹


⁶ Par. 1, Amended *Petition for Review* of Protest and Appeal for Duty and Tax Refund (Amended Petition), Division Docket, p. 81.

⁷ Par. 7, *id.*, p. 81.

⁸ Resolution dated February 22, 2021, Division Docket, p. 147.

⁹ *Id.*, pp. 147-148.

¹⁰ Division Docket, pp. 6-9.

¹¹ Resolution dated February 22, 2021, Division Docket, p. 148.

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On July 23, 2021, the Court in Division issued a Resolution¹² directing petitioner to amend the *petition for review* to include the: (1) names of witnesses, summary of their testimonies and their judicial affidavits; (2) list of documentary and object evidence in support of the allegations contained in the pleading; (3) original or certified true copy of the DTI Certificate of Registration; and (4) a compliant Verification and Certification of non-forum shopping. The Court in Division added that failure to comply with the foregoing requirements is sufficient ground for dismissal.

On December 9, 2021, petitioner filed an Amended Petition for Review of Protest and Appeal for Duty and Tax Refund¹³ (Amended Petition) to enjoin the District Collector of Customs and COC, Rey Leonardo Guerrerro, to execute the speedy refund of the over-charged Duty/Tax in the amount of ₱7,426,502.75.¹⁴

On February 22, 2022, the Court in Division promulgated a Resolution¹⁵ dismissing outright petitioner's Amended Petition for lack of jurisdiction. Its *fallo* reads:

WHEREFORE, in view of the foregoing, petitioner's *Amended Petition for Review of Protest and Appeal for Duty and Tax Refund* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

On March 16, 2022, petitioner filed *via* registered mail its *Motion for Reconsideration (Re: Resolution promulgated on February 22, 2022)*.¹⁶

On April 21, 2022, the Court in Division issued the assailed Resolution¹⁷ denying petitioner's motion for reconsideration. The dispositive portion reads:

WHEREFORE, in view of the foregoing, petitioner's *Motion for Reconsideration [Re: Resolution promulgated on February 22, 2022]* is hereby **DENIED** for lack of merit.

SO ORDERED.



¹² Division Docket, pp. 77-79.

¹³ *Id.*, pp. 80-84.

¹⁴ Resolution dated February 22, 2021, Division Docket, pp. 147-151.

¹⁵ *Id.*

¹⁶ Division Docket, pp. 152-166, with annexes. Received by the Court in Division on March 30, 2022.

¹⁷ *EB* Docket, pp. 28-36; Division Docket, pp. 169-173.

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Undaunted, petitioner filed this Petition for Review on May 12, 2022.

On June 21, 2022, the Court *En Banc* directed petitioner to submit the originals or certified true copies of the Resolutions dated February 22, 2022 and April 21, 2022, and the affidavit of service within five (5) days from notice and ordered respondents to file their comment within ten (10) days from notice.

On July 6, 2022, respondents, through the Office of the Solicitor General (OSG), filed their *Motion for Extension (with Entry of Appearance)*,¹⁸ praying for a 30-day extension, or until August 7, 2022, to file their comment.

On July 8, 2022, petitioner filed a *Compliance [Re: Resolution promulgated June 21, 2022]*, which the Court *En Banc* received on July 11, 2022.¹⁹

On August 3, 2022, respondents filed *via* registered mail their *Comment*,²⁰ to which petitioner filed a *Petitioner's Reply Comment [Re: Respondents District Collector of Customs and Commissioner of Customs (COC) Comment filed through the Office of the Solicitor General (OSG) dated August 1, 2022]*.²¹

In its Resolution dated August 25, 2022,²² the Court *En Banc* again directed petitioner to submit the originals or certified true copies of the Resolutions dated February 22, 2022 and April 21, 2022, and the affidavit of service of the Petition for Review containing the courier's official receipts and document tracking numbers, within a non-extendible period of ten (10) days from notice; and noted and granted respondents' *Motion for Extension (with Entry of Appearance)*.²³

On September 13, 2022, the Court *En Banc* noted *Petitioner's Reply Comment [Re: Respondents District Collector of Customs and Commissioner of Customs (COC) Comment filed through the Office of the Solicitor General (OSG) dated August 1, 2022]* and submitted the present case for decision.²⁴

¹⁸ *EB* Docket, pp. 27-30.

¹⁹ *Id.*, pp. 12-25.

²⁰ *Id.*, pp. 32-81.

²¹ *Id.*, pp. 83-97. Received by the Court on August 9, 2022.

²² *Id.*, pp. 99-101.

²³ *Id.*, pp. 27-30.

²⁴ *Id.*, pp. 103-104.



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On September 16, 2022, petitioner filed its *Compliance [Re: Resolution promulgated August 25, 2022]*.²⁵

On October 7, 2022, petitioner's counsel, Atty. Manuel R. Castro filed a *Notice of Withdrawal of Counsel*, with the conformity of Mr. Orlando C. Manuntag, petitioner's Owner/Proprietor.²⁶ On the same date, petitioner filed a *Manifestation*²⁷ stating that its counsel on record has tendered his withdrawal as counsel and requesting that it be given ample time to find another counsel, which the Court noted in a Minute Resolution dated October 11, 2022.²⁸

On December 23, 2022, the Court *En Banc* issued a Resolution stating that on September 13, 2022, the present case was submitted for decision and that upon perusal of petitioner's *Compliance* filed on September 16, 2022, it was noted that the attached copies of the assailed Resolutions are still photocopies.²⁹

On January 11, 2023, a *Formal Entry of Appearance*³⁰ was filed by Atty. Camille S. Palma as counsel for petitioner, which the Court noted on January 12, 2023.³¹

On March 9, 2023, petitioner filed a *Manifestation*³² that its counsel on record has tendered her withdrawal of appearance. It requested that it be given ample time to find another counsel, which the Court noted in a Resolution issued on April 24, 2023.³³

THE ISSUE

Petitioner failed to put forth any issue, but from a perusal of its allegations, the issue could be summed up as follows:

Whether the Court in Division gravely erred in *dismissing* its Amended Petition for Review of Protest and Appeal for Duty and Tax Refund for lack of jurisdiction and in *denying* its Motion for Reconsideration of Resolution promulgated on February 22, 2022, for lack of merit.

²⁵ *Id.*, pp. 105-118.

²⁶ *Id.*, pp. 119-120.

²⁷ *Id.*, pp. 121-122.

²⁸ *Id.*, pp. 123.

²⁹ Resolution, *EB Docket*, pp. 125-127.

³⁰ *EB Docket*, pp. 128-129.

³¹ Minute Resolution, *EB Docket*, p. 130.

³² *EB Docket*, p. 131.

³³ Resolution, *EB Docket*, pp. 133-134.

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Petitioner's arguments

Petitioner argues that the Court has jurisdiction over the inaction of the COC under Section 9 of Republic Act (RA) No. 9282. It alleges that for over a year, respondents took no action on the disputed issues of duty and tax valuations or assessments and demanded a refund of the charges and collections of customs duty and tax on its rice shipments.

As such, petitioner filed a Petition for Duty and Tax Refund³⁴ in conformity with Rule 8 of the RRCTA. It claims that the unjustifiable inaction of respondents in attending to its claim for refund is tantamount to a violation of petitioner's constitutional right to speedy disposition of its case.

Respondents' arguments

Respondents contend that the Court in Division correctly dismissed the Amended Petition for lack of jurisdiction since nothing in RA No. 9282 grants the CTA jurisdiction over cases of inaction of the respondents on protests or claims for taxes or refunds.

Respondents further argue that petitioner failed to state in its verification and certification of non-forum shopping the pendency of CTA Case No. 10540 before the Court's Second Division, which involves the same issues and parties as CTA Case No. 10559; hence, the petition must be dismissed for its failure to comply with the requirements of proper verification and certification of non-forum shopping.

THE COURT *EN BANC*'S RULING

The petition is not impressed with merit.

***The instant Petition for Review
is timely filed.***

On April 21, 2022, the Court in Division denied petitioner's *Motion for Reconsideration (Re: Resolution promulgated on February 22, 2022)*, a copy of which was allegedly received by petitioner on May 3, 2022.³⁵

³⁴ Division Docket, pp. 6-9.

³⁵ Par. 1, *Petition for Review*, EB Docket, p. 1. A copy of the Resolution dated April 21, 2022 was served to petitioner thru courier on May 2, 2022, Division Docket, p. 167 (back).



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As provided under Section 3(b), Rule 8³⁶ of the RRCTA, petitioner had fifteen (15) days from receipt of the assailed *Resolution* on May 3, 2022, or until May 18, 2022,³⁷ to file a *Petition for Review* before the Court *En Banc*.

On May 12, 2022, petitioner posted this *Petition for Review*³⁸ within the reglementary period.

Having settled that the *Petition for Review* 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 Amended Petition for Review of Protest and Appeal for Duty and Tax Refund.

Petitioner argues that the CTA has jurisdiction over the *inaction* of the COC, who must be held accountable for their delay and not be shielded by the rules and procedures in the higher interest of justice and equity.

We are not convinced.

We reiterate the Court in Division's pronouncement³⁹ on the matter, *viz.*:

After careful evaluation of the allegations in the Amended 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 provide:



³⁶ *Supra*, note 2.

³⁷ The next working day since the 15th day period fell on a Sunday, January 2, 2022.

³⁸ *Supra*, note 1.

³⁹ Resolution dated February 22, 2021, Division Docket, pp. 149-150.

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

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

xxx

(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**; (*underscoring supplied*)

In relation thereto, Section 3, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, specifically includes that decision of the COC as one of the cases falling within the jurisdiction of the CTA in Division, as follows:

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:

xxx

(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**; (*underscoring supplied*)

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 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 BOC.

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 26, 2021. The filing of the Petition for Duty and Tax Refund is premised on the alleged inaction of the COC. Inaction by the COC on cases



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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.

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. ...

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 delay should not be shielded with the strictest implementation of the rule⁴⁰ is without merit. While exhaustion of administrative remedies is not necessary where there is unreasonable delay or official inaction that will irretrievably prejudice petitioner,⁴¹ We find the said *exception* not applicable as petitioner failed to allege and substantiate the material facts

⁴⁰ Par. 14, *Petition for Review*, EB Docket, p. 4.

⁴¹ *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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surrounding the supposed “unjustifiable inaction and delay” of respondents in acting on its protest and appeal. Moreover, the Amended Petition failed to show whether the pertinent procedures for dispute settlement under the CMTA, as discussed below, have been violated by respondents.

Hence, the Court in Division did not err in dismissing this case for lack of jurisdiction and in denying petitioner’s *Motion for Reconsideration [Re: Resolution promulgated on February 22, 2022]* for lack of merit.

Nevertheless, even if the Court in Division had jurisdiction over respondents’ inaction, the case would still not prosper because petitioner failed 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.

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, the above-cited Section 4(a), Rule 8 of the RRCTA provides that an appeal from the *decision* or *ruling* of the COC shall be taken to the Court by filing a *petition for review* as provided under Rule 42 of the Revised Rules of Court.

In turn, Sections 2 and 3 of Rule 42 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**



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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 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.⁴² 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.⁴³

For better appreciation, We quote below the contents of the Amended Petition, consisting of three (3) pages, filed by petitioner with the Court in Division:

**“AMENDED PETITION FOR REVIEW OF PROTEST AND
APPEAL FOR DUTY AND TAX REFUND**

1. That the Petitioner is a proprietorship marketing business establishment duly registered with the Department of Trade and Industry (DTI) ...;

... ..



⁴² Section 2, Rule 6 of the RRCTA; Section 2, Rule 42 of the Revised Rules of Court.
⁴³ Section 3, Rule 42 of the Revised Rules of Court.

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8. That, on March 4, 2021, the Petitioner submitted its Protest and Appeal for Duty and Tax Refund to the Office of the Hon. Commissioner at his afore-mentioned office which was received by the Bureau of Customs Customer Center. ...

9. That as embodied in its Protest and Appeal, the Petitioner had requested and presented to the Respondents its notices of payments under protests against the valuation and collection made by the Respondent Collection District Officer of the related shipment, pointing out the customs duty and tax upon its rice shipments that was illegitimately effected and unduly imposed as it [sic] not in conformity 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, that officially and legally mandate the basis of valuation relative the subject rice shipment duty and tax charges shall be on the price actually paid or payable for the goods and not unduly on the basis of the Reference Value when the goods are sold out for export to the Philippines which are unreasonably excessive, unfair, unjust, and inequitable;

... ..

9. [sic] That from the date of its receipt of Petitioner's Protest and Appeal on March 4, 2021 until at present being September 6, 2021, the Respondents have remained without taking any action on the disputed issues of duty and tax valuations or assessments, and on the demanded refund of the excess charges of customs duty and tax upon the rice shipments of the Petitioner. Such inaction adversely, unfairly, unjustly and unnecessarily affected the legitimate rights and interests of herein Petitioner. For such cause, the Petitioner deems it fitting to file before this Honorable Court this instant Petition in conformity with Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals, as amended;

10. 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 process 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 both enjoined to execute the desired speedy refund of the over-charged amount of Duty and Tax that its respective offices have caused to be unduly collected from the Petitioner in the grand total amount of SEVEN MILLION FOUR HUNDRED TWENTY-SIX THOUSAND FIVE HUNDRED FOUR [sic] TWO & 75/100ths PESOS (Php7,426,502.75), Philippine Currency as herein above-recapitulated and shown in paragraph 8 of this Petition."



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A cursory reading of the above Amended Petition 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.⁴⁴

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 Amended Petition before the Court in Division.

More, the Amended Petition did not state whether petitioner followed the proper 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.



⁴⁴ Annexes “1”to “40”, Petition for Duty and Tax Refund, Docket, pp. 10-75.

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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.

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*)



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Implementing Section 114, Chapter II, Title I of the CMTA is Customs Administrative Order (CAO) No. 02-2020.⁴⁵ 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.**

... ..

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.⁴⁶ Otherwise, the action of the District Collector shall be final and conclusive.⁴⁷**



⁴⁵ Dispute Settlement and Protest, April 4, 2020.

⁴⁶ CMTA, Title XI, Chapter 2, Section 1106.

⁴⁷ CMTA, Title XI, Chapter 2, Section 1107.

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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.⁴⁸

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.⁴⁹

SEC. 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.⁵⁰ (*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.⁵¹ Otherwise, the action of the District Collector shall be final and conclusive.⁵²

⁴⁸ CMTA, Title XI, Chapter 9, Section 1136.

⁴⁹ *Id.*

⁵⁰ *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.

⁵¹ Section 10.1, CAO No. 02-2020.

⁵² *Id.*



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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.⁵³ 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 filed its Protest and Appeal for Duty and Tax Refund (Protest) to the office of respondent COC.⁵⁴ Petitioner did not mention if 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.⁵⁵ Nothing in the petition intimates that a protest was made to the District Collector. Hence, We cannot determine if the March 4, 2021 Protest was timely filed.

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 on March 4, 2021 or until April 3, 2021, the Court in Division would still have no jurisdiction over the Amended 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. 29-2021⁵⁶ 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. 33-2021.⁵⁷ Thus, petitioner had seven days from May 17, 2021, or until May 24, 2021, to file its *Petition for Review*.



⁵³ Section 10.3, CAO No. 02-2020.

⁵⁴ Par. 8, Amended Petition, Division Docket, p. 81.

⁵⁵ Section 10.1, CAO No. 02-2020.

⁵⁶ RE: WORK ARRANGEMENTS IN COURTS ON MAY 3-14, 2021.

⁵⁷ RE: COURT OPERATIONS STARTING MAY 17, 2021, dated May 14, 2021.

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Consequently, 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.

As correctly ruled by the Court in Division,⁵⁸ the filing beyond the prescriptive period rendered the Court without jurisdiction over the subject petition.

The instant Petition for Review is also dismissible for failure to comply with the rules and orders of the Court.

On June 21, 2022,⁵⁹ petitioner was directed by the Court to submit, within five (5) days from notice, the originals or certified true copies of the assailed Resolutions dated February 22, 2022 and April 21, 2022, since it failed to attach the same in its *Petition for Review*, under Section 2, Rule 6 of the RRCTA.⁶⁰

On August 25, 2022,⁶¹ petitioner was also given a non-extendible period of ten (10) days to submit the originals or certified true copies of the assailed Resolutions because the documents attached to the *Compliance [Re: Resolution promulgated June 21, 2022]*, which the Court received on July 11, 2022, are mere photocopies of the assailed Resolutions. On September 16, 2022, petitioner filed its *Compliance [Re: Resolution promulgated August 25, 2022]*. Upon perusal, the Court observed that the attached copies of the assailed Resolutions are *still* photocopies.

Under Section 1 (g), Rule 50 of the Rules of Court, the Court may dismiss the appeal on the following grounds:

SEC. 1. *Grounds for dismissal of appeal.* — An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

... ..

⁵⁸ Resolution dated April 21, 2022, Docket, p. 150.
⁵⁹ Resolution, *EB* Docket, pp. 10-11.
⁶⁰ 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*)
⁶¹ Resolution, *EB* Docket, pp. 99-101.



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(g) Failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the court in its order; (Emphasis supplied)

Moreover, under Section 3, Rule 42 of the Revised Rules of Court, petitioner's failure to comply with any of the requirements regarding the contents of and the documents which should accompany the petition shall be sufficient ground for its dismissal.

In fine, petitioner's *repeated* failure to comply with the rules⁶² and the lawful orders⁶³ of this Court warrants the dismissal of the present petition.

The Supreme Court has consistently held that "[t]he right to appeal is neither a natural right nor a component of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the rules. Failing to do so, the right to appeal is lost."⁶⁴

While We are moved by petitioner's plea and understand its plight, it does not excuse its unwarranted disregard for the rules and orders of the Court; hence, We cannot grant the relief it seeks as the foregoing circumstances leave the Court without a choice but to dismiss the case.

Accordingly, We uphold the Court in Division's dismissal of petitioner's Amended *Petition for Review* of Protest and Appeal for Duty and Tax Refund for lack of jurisdiction, for insufficiency in form and substance, for failure to comply with the Court's orders, and for being time-barred.



⁶² Section 3, Rule 42, Rules of Court provides:

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. (Emphases supplied)**

⁶³ Section 3, Rule 17 of the Revised Rules of Court, provides that:

SEC. 3. *Dismissal due to fault of plaintiff.* — **If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action.** This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

⁶⁴ *Turks Shawarma Company/Gem Zeñarosa v. Pajaro, et al.*, G.R. No. 207156, January 16, 2017.

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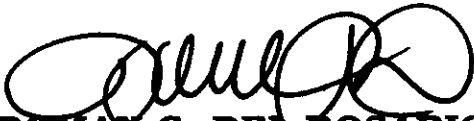
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WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit.

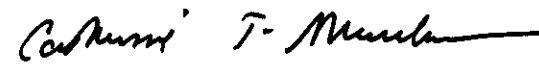
SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

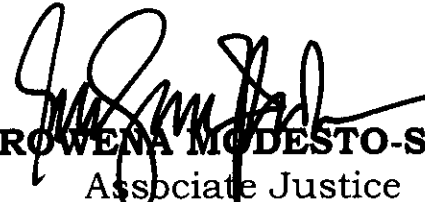
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


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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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

