

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
Quezon City

EN BANC

COMMISSIONER  
CUSTOMS,

OF

CTA EB NO. 2714  
(CTA Case No. 9956)

Petitioner,

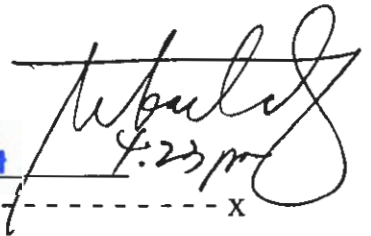
Present:

- versus -

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

STA. ROSA FARM  
PRODUCTS  
CORPORATION,  
Respondent.

Promulgated:  
APR 18 2024



Handwritten signature and date: 4:23 pm

X ----- X

**DECISION**

**BACORRO-VILLENA, J.:**

Assailing the Decision dated 17 February 2022<sup>1</sup> (**assailed Decision**) and Resolution dated 14 September 2022<sup>2</sup> (**assailed Resolution**) of the Third Division<sup>3</sup> in CTA Case No. 9956, entitled *Sta. Rosa Farm Products Corporation v. Commissioner of Customs*, petitioner Commissioner of Customs (**petitioner/COC**) filed the instant Petition for Review<sup>4</sup> before the Court *En Banc* on 02 December

<sup>1</sup> *Rollo*, pp. 103-121.

<sup>2</sup> *Id.*, pp. 122-126.

<sup>3</sup> Penned by Associate Justice Maria Rowena Modesto-San Pedro, with Associate Justice Erlinda P. Uy (Ret.) and Associate Justice Ma. Belen M. Ringpis-Liban, concurring.

<sup>4</sup> *Rollo*, pp. 68-99.

2022<sup>5</sup>, pursuant to Section 3(b)<sup>6</sup>, Rule 8, in relation to Section 2(a)(1)<sup>7</sup>, Rule 4 of the Revised Rules of the Court of Tax Appeals<sup>8</sup> (**RRCTA**).

Herein, petitioner seeks the reversal of the assailed Decision and assailed Resolution and pray instead for a judgment denying respondent Sta. Rosa Farm Products Corporation's (**respondent's**) Petition for Review (before the Third Division) for lack of merit, thereby allowing the Bureau of Customs (**BOC**) to retain the total amount of ₱103,596,589.80 that it received as proceeds from the public auction sale of respondent's rice shipments from 14 June 2018.

The records show that the BOC had seized the said shipments and forfeited the same in favor of the government as a result of respondent's supposed failure to obtain the necessary import permits from the National Food Authority (**NFA**). Respondent's alleged lapse was grounded upon its reliance on sources that favor the removal of quantitative restrictions in the importation of rice, pursuant to the country's treaty obligations under the Marrakesh Agreement Establishing the World Trade Organization (**WTO Agreement**), which is comprised of various Multiple Trade Agreements (**MTAs**) (including the General Agreement on Tariffs and Trade 1994 [**GATT**] and the WTO Agreement on Agriculture).

---

<sup>5</sup> The Petition for Review was filed subsequent to the grant of a fifteen (15)-day extension from 17 November 2022 (or until 02 December 2022) by the Court *En Banc* pursuant to a "Motion for Extension of Time to File Petition for Review" *per En Banc* Minute Resolution dated 22 November 2022, *id.*, p. 67.

<sup>6</sup> **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.

...

<sup>7</sup> **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

...

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.]

...

<sup>8</sup> A.M. No. 05-11-07-CTA.

### PARTIES OF THE CASE

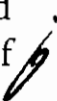
Petitioner COC is the head of the BOC, a government instrumentality under the Department of Finance (DOF) tasked with the assessment and collection of the lawful revenues from imported articles and all other dues, taxes, fees and charges, fines and penalties accruing under the tariff and customs laws.

Respondent, on the other hand, is a domestic corporation that has its principal office at Ground Floor, Doña Rosita Building, 2025-2031, Ipil Street, Sta. Cruz, Manila.

### FACTS OF THE CASE

On 14 June 2018, two (2) separate shipments of white rice (5% Broken, Red Stallion Brand), with a total of 50,000 bags, arrived from Thailand at the Manila International Container Port (MICP) on board the KMTC JAKARTA<sup>9</sup> and NORDCLAIRE<sup>10</sup>. The shipments were covered by Bills of Lading (BL) Nos. 320810158877<sup>11</sup> and GTD0404645<sup>12</sup> and both were consigned to respondent.<sup>13</sup>

On 11 July 2018, the said shipments were respectively declared under Single Administrative Documents (SADs) with nos. C-183996-18<sup>14</sup> and C-184113-18<sup>15</sup>, each with dutiable values of ₱21,105,640.00 and totaling ₱42,211,280.00.<sup>16</sup>

On 12 July 2018, MICP District Collector Atty. Vener S. Baquiran (**Baquiran**) issued Alert Order Nos. A/M1/20180712-516<sup>17</sup> and A/M1/20180712-521<sup>18</sup> against the shipments for suspected violations of 

<sup>9</sup> Exhibit "P-1", BOC Records, Folder II, p. 117.

<sup>10</sup> Exhibit "P-11", id., Folder I, p. 88-A.

<sup>11</sup> Supra at note 9.

<sup>12</sup> Supra at note 10.

<sup>13</sup> Paragraph 1.1, Stipulated Facts, Joint Stipulation of Facts and Issues (JSFI), Division Docket, Volume II, p. 542.

<sup>14</sup> Supra at note 9.

<sup>15</sup> Supra at note 10.

<sup>16</sup> Par. 1.2. Stipulated Facts, JSFI, Division Docket, Volume II, pp. 542-543.

<sup>17</sup> BOC Records, Folder II, p. 95-A.


<sup>18</sup> Id., Folder I, p. 88-C.

Sections 117<sup>19</sup> and 1113<sup>20</sup> of Republic Act (RA) No. 10863<sup>21</sup> or the Customs Modernization and Tariff Act (CMTA). Specifically, the Alert Orders noted the shipments' lack of NFA Import Permits.

Later, on 27 July 2018, the BOC issued Reports of Seizure recommending the issuance of Warrants of Seizure and Detention (WSDs) against the shipments.<sup>22</sup> The BOC eventually issued the WSDs on 30 July 2018.<sup>23</sup>

On 01 August 2018, the MICP's Law Division conducted a preliminary conference on the seizure cases. The parties agreed for the consolidation of the seizure proceedings since they involved the same parties, issues, and violations.<sup>24</sup>

As directed by the hearing officer in the proceedings that ensued, respondent filed its "Consolidated and Joint Verified Position Paper (With Motion to Quash)"<sup>25</sup> (**Position Paper**). Therein, respondent argued against the necessity of NFA Import Permits for its rice shipments. In support thereof, respondent cited various news reports where then President Rodrigo R. Duterte (**President Duterte**) announced the lifting of the quantitative restrictions on rice importations. It also presented its correspondences with the NFA, where the latter supposedly confirmed that out-quota rice importations were not to be subjected to the Import Permit requirement. Based on this, respondent moved to quash the WSDs and asked the BOC to release its imported goods.

On 20 August 2018, respondent received a copy of the MICP District Collector's Consolidated Order of Forfeiture (**Consolidated Order**) dated 16 August 2018.<sup>26</sup> The said Consolidated Order denied respondent of the reliefs it sought in its Position Paper and ordered the forfeiture of its rice shipments in favor of the government.<sup>27</sup> 

<sup>19</sup> SEC. 117. *Regulated Importation and Exportation.* — ...

<sup>20</sup> SEC. 1113. *Property Subject to Seizure and Forfeiture.* — ...

<sup>21</sup> AN ACT MODERNIZING THE CUSTOMS AND TARIFF ADMINISTRATION.

<sup>22</sup> BOC Records, Folder I, p. 84 and Folder II, p. 92.

<sup>23</sup> Id., Folder I, pp. 77-79 and Folder II, pp. 69-71.

<sup>24</sup> Par. 1.7, Stipulated Facts, JSFI, Division Docket, Volume II, p. 543.

<sup>25</sup> BOC Records, Folder II, pp. 45-56.

<sup>26</sup> Par. 1.12, Stipulated Facts, JSFI, Division Docket, Volume II, p. 547.

<sup>27</sup> BOC Records, Folder II, pp. 57-68.

To enforce the Consolidated Order, the MICP District Collector caused the posting of the Notice of Public Auction of the rice shipments on the BOC's official website. The auction was initially set for 29 August 2018. The two (2) shipments were assigned similar floor prices of ₱44,081,500.00 each, or a total of ₱88,163,000.00 for both.<sup>28</sup>

Aggrieved, on 29 August 2018, respondent filed its "Joint and Consolidated Notice of Appeal and Memorandum on Appeal"<sup>29</sup> (**Appeal**) to the Consolidated Order. On the same day, the public auction sale of respondent's seized rice importations proceeded as scheduled.<sup>30</sup> The sales' proceeds totaled ₱103,596,589.00 which were held in escrow, with further details as follows:

BL No.	Lot No.	Sales Invoice (SI) No.	Highest Bidder	Bid Price
320810158877	8-026-2018	073-2018	CARMS Trading	₱51,603,000.00 <sup>31</sup>
GTD0404645	8-027-2018	074-2018	X&Y Trading	₱51,993,589.00 <sup>32</sup>

On 21 September 2018, respondent received a copy of petitioner's Decision dated 17 September 2018<sup>33</sup> (**COC Decision**), which denied respondent's Appeal and affirmed the Consolidated Order. Discontented, on 19 October 2018, herein respondent elevated its case to the Court of Tax Appeals (CTA) via a Petition for Review.<sup>34</sup> It was initially raffled to this Court's Third Division.

On 30 January 2019, in line with an extension<sup>35</sup> of the period that the Court granted, herein petitioner (as then respondent) timely filed an Answer<sup>36</sup> interposing his or her special and affirmative defenses. In the Answer, petitioner insisted that no error was committed in issuing the COC Decision. According to petitioner, the shipments were rightfully seized as there were no NFA import permits. Further, petitioner maintained that the public auction sale of the seized rice

<sup>28</sup> Exhibit "P-34", Division Docket, Volume III, p. 1213-1216.

<sup>29</sup> BOC Records, Folder I, pp. 31-56.

<sup>30</sup> Par. 1.15, JSFI, Division Docket, Volume II, p. 547.

<sup>31</sup> Exhibits "P-51" to "P-51-C", id., Volume III, pp. 1396-1398.

<sup>32</sup> Exhibits "P-52" to "P-52-C", id., pp. 1400-1403.

<sup>33</sup> BOC Records, Folder I, pp. 4-14.

<sup>34</sup> Division Docket, Volume I, pp. 10-47.

<sup>35</sup> See Resolution dated 16 January 2019, id., pp. 145.

<sup>36</sup> See Answer/Comment (To the Petition for Review dated 18 October 2018), id., pp. 146-160.

during the seizure proceedings was proper as “rice” was considered “perishable”.

On 11 February 2019, petitioner transmitted the BOC’s records of the present case to this Court.<sup>37</sup>

Subsequently, petitioner filed his or her Pre-Trial Brief<sup>38</sup> on 16 May 2019, while respondent’s Pre-Trial Brief<sup>39</sup> was filed on 17 May 2019. On 25 June 2019, pursuant to the Court’s Order during the 21 May 2019 Pre-Trial Conference<sup>40</sup>, the parties also submitted their Joint Stipulation of Facts and Issues<sup>41</sup> (JSFI). On 22 August 2019, the Court issued the Pre-Trial Order<sup>42</sup>, marking the termination of the Pre-Trial Conference.

At the trial proper that ensued thereafter, respondent (as then petitioner) presented testimonies from its witnesses, namely: (1) Jomerito S. Soliman<sup>43</sup> (**Soliman**), its President; and, (2) Diosdado M. Santiago<sup>44</sup> (**Santiago**), its customs broker. Each witness testified *via* their respective Judicial Affidavits.

On the witness stand, Soliman outlined respondent’s factual and legal bases in establishing that the latter’s rice importations do not require NFA Import Permits. In doing so, he primarily relied on President Duterte’s policy pronouncements. He also cited correspondences with the Office of Senator Bong Go, Secretaries of the DOF, COC, Department of Agriculture, and the NFA. He also disputed the urgency of the public auction sale, arguing that rice is “non-perishable”.<sup>45</sup>

---

<sup>37</sup> See Compliance dated 11 February 2019, *id.*, p. 164-170.

<sup>38</sup> *Id.*, pp. 180-187.

<sup>39</sup> *Id.*, pp. 189-202.

<sup>40</sup> See Minutes of the Hearing held and Order, both dated 21 May 2019, *id.*, pp. 207 and 213-215, respectively.

<sup>41</sup> *Id.*, Volume II, pp. 542-552.

<sup>42</sup> *Id.*, pp. 600-614.

<sup>43</sup> Exhibit “P-53”, *if.*, Volume I, pp. 221-464.

<sup>44</sup> Exhibit “P-54”, *id.*, pp. 465-526.


<sup>45</sup> *Supra* at note 43.

On cross-examination<sup>46</sup>, respondent's positions were scrutinized when petitioner's counsel interrogated Soliman over the tenor of respondent's communications with the above-mentioned authorities. According to petitioner, it is apparent that respondent has consistently been seeking authority to proceed with its transactions, contrary to its position that there were no longer any barriers to its importations of rice. Soliman dismissed such allegations as mere formalities and acts of courtesy.

During the redirect examination that followed, Soliman's testimony revolved mainly around the discussions with President Duterte and the various government bodies involved. On re-cross examination, petitioner's counsel centered on the veracity of respondent's actions and correspondence *vis-à-vis* the narrative it offered to the Court.<sup>47</sup>

Meanwhile, Santiago testified as to his participation in respondent's imports. Relative thereto, he identified the pertinent importation documents and offered a narration of the events that transpired during the seizure of respondent's rice shipments.<sup>48</sup>

As Santiago was cross-examined, he was prodded over his reliance on Customs Administrative Order (CAO) No. 2-2017.<sup>49</sup> He clarified his perception in his response, as well as during the redirect examination that followed. He recognized the need (under the CAO) to request for authority to import rice. Though for Santiago, President Duterte's pronouncements regarding the lifting of the quantitative restrictions on rice importations put an end to such requirements.<sup>50</sup>

On 18 February 2020, petitioner manifested in open court that he or she will not be presenting witnesses.<sup>51</sup> 

---

<sup>46</sup> TSN dated 18 February 2020, pp. 11-21.

<sup>47</sup> Id., pp. 21-43.

<sup>48</sup> Supra at note 44.

<sup>49</sup> Rules and Regulations Implementing Republic Act No. 10845 Otherwise Known as Anti-Agricultural Smuggling Act of 2016.

<sup>50</sup> Supra at note 46, pp. 45-57.

<sup>51</sup> See Minutes of the Hearing dated 18 February 2020, Division Docket, Volume II, p. 651.

Later, on 09 March 2020, respondent filed its “Formal Offer of Documentary Exhibits”<sup>52</sup> (FOE). Accordingly, on 23 June 2020, petitioner filed his or her Comment thereto.<sup>53</sup>

In its Resolution dated 17 September 2020<sup>54</sup>, the Court acted upon respondent’s FOE admitting most of its exhibits with several exceptions, namely: (1) Exhibits “P-21” to “P-32”, “P-34” to “P-41”, “P-44” to “P-52-C”, for having failed to submit the duly marked exhibits; and, (2) Exhibits “P-42” and “P-43”, for having failed to present the originals for comparison.

In an attempt to remedy the same, respondent asked for the admission of its denied exhibits through its “Motion for Partial Reconsideration (of the Resolution dated 17 September 2020)”<sup>55</sup> (MPR on the FOE Resolution) which it filed on 03 November 2020. Relative thereto, on 18 November 2020, respondent also submitted a “Manifestation with Supplement to the Motion for Partial Reconsideration (of the Resolution dated 17 September 2020)”<sup>56</sup>. With these, respondent prayed for the Court’s admission of the exhibits previously denied and forwarded all the absent duly marked exhibits. Petitioner filed its Comment upon respondent’s MPR on 17 December 2020.<sup>57</sup>

In the *interim*, respondent filed its Memorandum<sup>58</sup> on 24 November 2020, while that of petitioner was filed on 29 December 2020.<sup>59</sup>

Acting upon respondent’s MPR, on 16 February 2021, the Court gave due course to the MPR over petitioner’s opposition and admitted all of the previously denied exhibits.<sup>60</sup> This was upon its consideration of respondent’s submission of the missing duly marked exhibits. Meanwhile, the Court took judicial notice of Exhibits “P-42”<sup>61</sup> and

---

<sup>52</sup> Id., pp. 678-702.

<sup>53</sup> Id., Volume III, pp. 994-1026.

<sup>54</sup> Id., pp. 1069-1070.

<sup>55</sup> Id., pp. 1071-1080.

<sup>56</sup> Id., pp. 1084-1087.

<sup>57</sup> Id., Volume IV, pp. 1463-1471.

<sup>58</sup> Id., Volume III, pp. 1404-1442.

<sup>59</sup> Id., Volume IV, pp. 1523-1555.

<sup>60</sup> See Resolution dated 16 February 2021, id., pp. 1563-1567.

<sup>61</sup> Customs Administrative Order (CAO) No. 4-94.



“P-43”<sup>62</sup>, on the premise that these exhibits represented BOC’s official issuances.

In the same Resolution dated 16 February 2021, with both parties’ memoranda having been previously filed and duly received, the case was submitted for decision.<sup>63</sup>

Thus, on 17 February 2022, the Third Division proceeded to promulgate the assailed Decision<sup>64</sup> that granted respondent’s Petition for Review. The dispositive portion thereof reads:


...

**WHEREFORE**, premises considered, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, [petitioner]’s Decision, dated 17 September 2018, is hereby **REVERSED** and **SET ASIDE**.

[Petitioner] is **ORDERED TO REFUND** [respondent] with the proceeds of the public auction sale in the amount of ₱103,596,589.80, less the corresponding customs duties imposable on the subject rice shipments, and other applicable expenses and obligations, in accordance with *Section 1143 of the CMTA or RA No. 10863*.

**SO ORDERED.**

...

In the assailed Decision, the Third Division upheld the validity of the public auction sale. It agreed with petitioner that “rice” was “perishable” in the context of the CMTA and considered respondent’s failure to reliably refute this position. Nevertheless, it awarded unto respondent the auction’s proceeds after finding that the forfeiture of respondent’s rice shipments was improper. It shared respondent’s view that NFA Import Permits were unnecessary for the shipment. Such was held to be in line with the lapse of the period of the Philippines’s special treatment that previously shielded it from its treaty obligations.<sup>65</sup> 

<sup>62</sup> Customs Memorandum Order (CMO) No. 24-2015.

<sup>63</sup> Supra at note 60.

<sup>64</sup> Supra at note 1; Emphasis and italics in the original text.

<sup>65</sup> Id.


Unsatisfied, on 07 April 2022, petitioner filed an MPR<sup>66</sup> of the assailed Decision. In the MPR, petitioner opposed the Third Division's view that the Philippines' treaty obligations set in without implementing legislation to accompany it. Following this assumption, the NFA Import Permit requirement remains in force.

On 16 May 2022, respondent filed its Comment<sup>67</sup> on petitioner's MPR. Therein, respondent pointed out that the Third Division had already ruled on petitioner's arguments in its MPR. It echoed in agreement the Third Division's findings that treaty obligations preclude the implementation of regulatory measures that promote quantitative restrictions, such as the NFA Import Permits. For respondent, the Court aptly ruled in its favor when the latter struck down the validity of the seizure proceedings.

With respondent's Comment, on 25 May 2022, the Third Division submitted the MPR for resolution.<sup>68</sup>

In the now assailed Resolution of 14 September 2022, the Third Division denied petitioner's MPR for lack of merit.<sup>69</sup> In denying the MPR, it observed that petitioner merely reiterated arguments already passed upon in the assailed Decision. The Court highlighted the absence of any compelling reasons to disturb its earlier findings.

### PROCEEDINGS BEFORE THE COURT *EN BANC*

Following petitioner's receipt of a copy of the assailed Resolution on 02 November 2022, he or she filed a "Motion for Extension of Time to File Petition for Review"<sup>70</sup> with the Court *En Banc* on 17 November 2022. On 02 December 2022, or within the fifteen (15)-day extended period granted, petitioner filed the instant Petition for Review<sup>71</sup> seeking the reversal of the Third Division's assailed Decision and Resolution. On 09 February 2023, respondent filed its Comment<sup>72</sup> thereto. 

---

<sup>66</sup> Division Docket, Volume IV, pp. 1589-1602.

<sup>67</sup> See Comment on [Petitioner's] Motion for Partial Reconsideration (with Notice of Change of Address of [Respondent's] Lead Counsel), *id.*, pp. 1606-1611.

<sup>68</sup> See Resolution dated 25 May 2022, *id.*, p. 1613.

<sup>69</sup> *Supra* at note 2.

<sup>70</sup> *Rollo*, pp. 1-4.

<sup>71</sup> *Supra* at note 4.

<sup>72</sup> *Rollo*, pp. 156-164.

On 19 April 2023, the Court *En Banc* submitted the case for decision.<sup>73</sup>

### ISSUE

Petitioner submitted a number of issues for the Court *En Banc*'s resolution which, however, may be summarized below to be —

WHETHER THE THIRD DIVISION ERRED IN FINDING THAT THE PROVISIONS OF THE WORLD TRADE ORGANIZATION (WTO) AGREEMENT ON AGRICULTURE WERE IN FORCE DURING THE TIME OF RESPONDENT STA. ROSA FARM PRODUCTS CORPORATION'S RICE IMPORTATIONS, DISPENSING WITH THE REQUIREMENT FOR IMPORT PERMITS ISSUED BY THE NATIONAL FOOD AUTHORITY (NFA) AND RENDERING THE SEIZURE AND FORFEITURE OF THE SHIPMENTS VOID.

### ARGUMENTS

In his or her bid for reversal, petitioner faults the Third Division's reasoning in reversing and setting aside the COC's decision. He or she maintains that the BOC correctly seized respondent's rice imports. For petitioner, respondent's failure to secure the corresponding NFA Import Permits is a sufficient ground to effect the forfeiture.

Petitioner also contends that the WTO Agreement is not self-executing, *i.e.*, local legislation is necessary to implement its provisions. Further, petitioner exclaims that such was accomplished through the enactment of RA 8178<sup>74</sup> and RA 11203<sup>75</sup>, and not through Senate Resolution No. 97.<sup>76</sup>

Finally, petitioner underscores the WTO Agreement's nature as a treaty in relation to the rights that may be derived from its provisions. ↗

---

<sup>73</sup> See *En Banc* Minute Resolution dated 19 April 2023, *id.*, p. 182.

<sup>74</sup> AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES or Agricultural Tariffication Act.

<sup>75</sup> AN ACT LIBERALIZING THE IMPORTATION, EXPORTATION AND TRADING OF RICE, LIFTING FOR THE PURPOSE THE QUANTITATIVE IMPORT RESTRICTION ON RICE, AND FOR OTHER PURPOSES.

<sup>76</sup> Resolution concurring in the ratification of the Agreement establishing the World Trade Organization, Senate Resolution No. 97, s. 1994.

According to petitioner, a treaty only affects sovereign states and does not affect non-state actors. In such case, petitioner posits that, by itself, the WTO Agreement does not grant demandable rights upon private entities like respondent, in the absence of enforcing local legislation.

In response, respondent finds justification in the Third Division's actions. According to respondent, the Third Division was correct in declaring the NFA Import Permits unnecessary in the subject rice's importations. It also disagrees petitioner's contention above and instead echoes the Third Division's finding that the WTO Agreement carries the same force as any of the country's laws, owing to its adoption by transformation.


Respondent similarly argues in favor of the applicability of the WTO Agreement in domestic conflicts, given that it has the same force and effect as any other domestic law.

### RULING OF THE COURT *EN BANC*

After thoroughly considering the records of the case and the parties' arguments, We find the present Petition for Review lacks merit.

Before proceeding further, the Court *En Banc* finds it propitious to preface its disquisition of the issue with a determination of whether it has jurisdiction over the present petition.

PETITIONER TIMELY FILED THE  
PETITION FOR REVIEW BEFORE THE  
COURT *EN BANC*.

Section 18 of RA 1125<sup>77</sup>, as amended by RA 9282<sup>78</sup>, provides that a party adversely affected by a resolution of a Division of the CTA on motion for reconsideration or new trial, may file a Petition for Review with the CTA *En Banc*. 

<sup>77</sup> AN ACT CREATING THE COURT OF TAX APPEALS.

<sup>78</sup> AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF R.A. NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.


The RRCTA<sup>79</sup>, under Section 3(b)<sup>80</sup>, Rule 8, states that the party affected should file the Petition for Review within 15 days from receipt of a copy of the questioned decision or resolution. This is without prejudice to the authority of the Court to grant an additional 15-day period<sup>81</sup> from the expiration of the original period, within which to file the Petition for Review.

Applying the foregoing, petitioner received the assailed Resolution<sup>82</sup> on 02 November 2022. Counting 15 days therefrom, he or she had until 17 November 2022 to file the present Petition for Review before the Court *En Banc*. On 17 November 2022, petitioner filed a "Motion for Extension of Time to File Petition for Review"<sup>83</sup> which the Court eventually granted<sup>84</sup>, pushing the deadline to file the petition back to 02 December 2022.

The instant petition<sup>85</sup> filed on 02 December 2022 has, therefore, been timely filed and the Court *En Banc* successfully acquired jurisdiction over it.

We, thus, proceed to discuss petitioner's arguments in support of this instant petition.

At the outset, We recognize that petitioner's arguments in support of the instant Petition for Review are merely reiterations of those in the MPR before the Third Division. These very same arguments led to the denial of herein petitioner's MPR (before the Third Division) for rehashing those in his or her earlier pleadings. Notably, the matters raised had already been thoroughly addressed in both the assailed Decision and assailed Resolution.

Nonetheless, this Court indulges to discuss the issues once more, if only to emphasize the salient points reached in the Third Division's findings. 

---

<sup>79</sup> Supra at note 8.

<sup>80</sup> Supra at note 6.

<sup>81</sup> Id.

<sup>82</sup> Supra at note 2.

<sup>83</sup> Supra at note 70.

<sup>84</sup> See *En Banc* Minute Resolution dated 22 November 2022, *rollo*, p. 67.

<sup>85</sup> Supra at note 4.

**DECISION**

X ----- X

AT THE TIME OF RESPONDENT'S SUBJECT IMPORTATIONS, NO REGULATIONS GOVERNING NATIONAL FOOD AUTHORITY (NFA) IMPORT PERMITS FOR RICE IMPORTED OUTSIDE THE QUANTITATIVE RESTRICTIONS WERE IN EFFECT.

As petitioner points out in the instant Petition<sup>86</sup> and similarly established by the Third Division, below follows a primer on the pertinent issuance governing NFA Import Permits:

...

Thus, the NFA, by virtue of its rule-making powers, issued NFA Memorandum Circular ("MC") No. AO-2017-08-002 dated 4 August 2017, which provided for guidelines in the importation of rice by the private sector. An NFA Import Permit for every importation of rice is required to ensure that the [Minimum Access Volume (MAV)] of 805,200 [metric tons (MT)] volume limit is not exceeded. Under Section XI.3, it provides that the shipment shall be considered illegal in the event that the shipment has no valid import permit.<sup>87</sup>


...

The body of the NFA Memorandum Circular (MC) No. AO-2017-08-002<sup>88</sup> itself is equally informative. Therein, the legal footing of the MC can be reliably traced:

...

SUBJECT: GENERAL GUIDELINES IN THE IMPORTATION OF 805,200 METRIC TONS, WHITE RICE UNDER THE MINIMUM ACCESS VOLUME COUNTRY SPECIFIC QUOTA (MAV-CSQ) AND THE MINIMUM ACCESS VOLUME OMNIBUS ORIGINS (MAV-OMB) FOR THE YEAR 2017 BY THE PRIVATE SECTOR.

...

This will serve as Guidelines for the Crop Year 2016-2017 Minimum Access Volume – Country Specific Quota ("MAV-CSQ") and 

---

<sup>86</sup> Par. 28.11, Petition for Review, *rollo*, pp. 82-83.

<sup>87</sup> *Id.*; Citation and emphasis omitted.

<sup>88</sup> GENERAL GUIDELINES IN THE IMPORTATION OF 805.200 METRIC TONS, WHITE RICE UNDER THE MINIMUM ACCESS VOLUME COUNTRY SPECIFIC QUOTA (MAV-CSQ) AND THE MINIMUM ACCESS VOLUME OMNIBUS ORIGINS (MAV-OMB) FOR THE YEAR 2017 BY THE PRIVATE SECTOR.

the Minimum Access Volume Omnibus Origin (“MAV-OMB”) Rice Importation Program

Rice importation under this Program shall be pursuant to Republic Act No. 8178 and the 24 July 2014 Decision of the World Trade Organization (“WTO”) on *Waiver Relating to Special Treatment for Rice in the Philippines*.<sup>89</sup>

...

In particular, it derives authority from RA 8178<sup>90</sup> which recognizes the country’s treaty obligations under the GATT. It likewise acknowledges the WTO’s Decision on Waiver Relating To Special Treatment for Rice of the Philippines. Notably, it was this WTO issuance that allowed the Philippines to continue imposing quantitative restrictions on rice imports until 30 June 2017.<sup>91</sup> The same also raised the MAV to 805,200 MTs and lowered the in-quota tariff rate from 40% to 35%.<sup>92</sup>

A perusal of NFA MC No. AO-2017-08-002’s provisions makes clear the conclusion that the said MC operates specifically upon the in-quota rice importations, or alternatively stated, the MAV. Clearly, the guidelines prescribed therein only apply to the 805,200 MTs allocation to be managed by the NFA. As can be further gleaned from its contents, the MC is mainly enforced through the issuance of NFA Certificates of Eligibility (COEs) and NFA Import Permits. The said documents go together. While the COE allows an importer to import from a specified source country, the Import Permit tracks particular imports and indicates the relevant import details for monitoring and regulation.<sup>93</sup>

Contrary to petitioner’s contention, respondent’s imports have previously been confirmed as out-quota, or outside the MAV. For this reason, they are also beyond the scope of NFA MC No. AO-2017-08-002. This view has been exemplified in respondent’s communications with the NFA<sup>94</sup>:

---

<sup>89</sup> Italics in the original text.

<sup>90</sup> Supra at note 74.

<sup>91</sup> DECISION ON WAIVER RELATING TO SPECIAL TREATMENT FOR RICE OF THE PHILIPPINES dated 24 July 2014.

<sup>92</sup> ANNEX A TO THE WAIVER DECISION OF 24 JULY 2014 RELATING TO SPECIAL TREATMENT FOR RICE OF THE PHILIPPINES.

<sup>93</sup> NFA Memorandum Circular (MC) No. AO-2017-08-002.

<sup>94</sup> Exhibit “P-36”, Division Docket, Volume III, p. 1254; Emphasis supplied.

...

This has reference to your follow-up letter dated 13 July 2018 pertaining to the following shipments of white rice of Omnibus origin **outside the Minimum Access Volume (MAV)/out-quota**[.]

...

...However, we would like to inform you that the NFA **has no existing guidelines/policy on the importation of rice outside of the Minimum Access Volume or out-quota** as of the present time.

...

Consequently, Section 116 of the CMTA provides for free importation in the absence of laws or regulations against it:

...

**SEC. 116. *Free Importation and Exportation.* – Unless otherwise provided by law or regulation, all goods may be freely imported into and exported from the Philippines without need for import and export permits, clearances or licenses.**<sup>95</sup>

...

At the outset, We have determined that the regulations invoked by petitioner would not even apply to respondent's imports. Nevertheless, We recognize that the quantitative restrictions themselves were no longer in force at the time.

QUANTITATIVE RESTRICTIONS WERE LIFTED AS THE EXTENDED PERIOD UNDER THE 'WAIVER RELATING TO SPECIAL TREATMENT FOR RICE IN THE PHILIPPINES' EXPIRED.

As the Philippines became party to the WTO Agreement and its MTAs, it was immediately incumbent upon it to comply with the terms laid down in the GATT and the WTO Agreement on Agriculture. As a rule, member countries are prohibited from imposing quantitative restrictions upon the covered agricultural and food products. Nevertheless, the Philippines secured special treatment pursuant to Article 15 of the WTO Agreement on Agriculture.<sup>96</sup> Such special

<sup>95</sup> Emphasis supplied and italics in the original text.

<sup>96</sup> Part IX: Article 15.  
Special and Differential Treatment.



treatment sanctioned staggered implementation of the reduction of quotas and tariff rates. Briefly, this enabled the Philippines to continue imposing quantitative restrictions until 2005, followed by an extension granted that lasted through 2012. Pursuant to the abovementioned WTO's Decision on Waiver Relating To Special Treatment for Rice of the Philippines, the granted Waiver extended the Philippines' special treatment one last time until 30 June 2017.<sup>97</sup> With its lapse thereafter, the country's obligations under the main Agreement resumed their effectivity.

It is noteworthy that none of these events required equivalent local legislation. Relatedly, petitioner forwards *Albert Wilson v. The Honorable Executive Secretary Eduardo Ermita, et al.*<sup>98</sup>, citing *Pharmaceutical and Health Care Association of the Philippines v. Health Secretary Francisco T. Duque III, et al.*<sup>99</sup> (**Duque**), in arguing that local legislation is required to give ratified treaties effect domestically:

...

As the OSG points out, the Court in the case of *Pharmaceutical and Health Care Association of the Philippines v. Health Sec. Duque III* stated that a treaty is transformed into domestic law through a constitutional mechanism. The Court explained:

Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.

Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that "[n]o treaty or

1. In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.
2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

<sup>97</sup> Supra at notes 91 and 92.

<sup>98</sup> G.R. No. 189220, 07 December 2016; Citations omitted, emphasis and italics in the original text and underscoring supplied.

<sup>99</sup> G.R. No. 173034, 09 October 2007.

international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate." Thus, treaties or conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts. (Citations omitted and emphasis ours)

In sum, there must be an act more than ratification to make a treaty applicable in our jurisdiction. To be sure, what was ratified were the ICCPR and the Optional Protocol, nowhere in the instrument does it say that the View of the Committee forms part of the treaty. ...

...

We do not share petitioner's view.

Petitioner appears to have misappreciated the pronouncements above. In the instant Petition, petitioner emphasizes that to make a treaty applicable in our jurisdiction (under our present 1987 Constitution), local legislation is required as there must be an act more than ratification.

In the portions above-quoted, ratification pertains to the **formal act** by which a state confirms and accepts the provisions of a treaty concluded by its representatives. The purpose of ratification is to enable the contracting states to examine the treaty more closely and to give them an opportunity to refuse to be bound by it should they find it inimical to their interests.<sup>100</sup>

Concurrence by the Senate is a separate constitutional mechanism that converts adopted treaties to allow them to form part of Philippine law. After ratification, a treaty operates as if our legislature legislated the same. This is grounded in Section 21<sup>101</sup>, Article VII of the 1987 Constitution.

To clarify, the *Duque* case tackled both methods available under the present Constitution, namely: (1) by incorporation; and, (2) by transformation. The first is best exemplified by the country's adoption of generally accepted principles of international law as part of the law of

<sup>100</sup> *Senator Aquilino Pimentel, Jr., et al. v. Office of the Executive Secretary represented by Hon. Alberto Romulo, et al.*, G.R. No. 158088, 06 July 2005.

<sup>101</sup> Sec. 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

the land.<sup>102</sup> The latter transforms international law into domestic law *via* a constitutional mechanism as discussed above.

In any case, it is clear in the present case that the WTO Agreement and its MTAs, including the GATT and the WTO Agreement on Agriculture, have been in force without the need for further policy or action beyond Senate Resolution No. 97.<sup>103</sup> Additionally, any dispute against the said resolution's validity was already put to rest in the case of *Wigberto E. Tañada, et al. v. Edgardo Angara, et al.*<sup>104</sup> There, the Supreme Court recognized the Philippine Senate's adoption of its Resolution No. 97 which "[r]esolved, as it is hereby resolved, that the Senate concur, as it hereby concurs, in the ratification by the President of the Philippines of the Agreement Establishing the World Trade Organization".<sup>105</sup>

Petitioner also assails the treaty's ability to stand alone. We are unswayed.

Local legislation is only necessary when the need is apparent. The Supreme Court's analysis in *Manila Prince Hotel v. Government Service Insurance System, et al.*<sup>106</sup> demonstrates the underlying principle:

...

Admittedly, some constitutions are merely declarations of policies and principles. Their provisions command the legislature to enact laws and carry out the purposes of the framers who merely establish an outline of government providing for the different departments of the governmental machinery and securing certain fundamental and inalienable rights of citizens. **A provision which lays down a general principle, such as those found in Art. II of the 1987 Constitution, is usually not self-executing. But a provision which is complete in itself and becomes operative without the aid of supplementary or enabling legislation, or that which supplies sufficient rule by means of which the right it grants may be enjoyed or protected, is self-executing.** Thus a constitutional provision is self-executing if the nature and extent of

---

<sup>102</sup> Section 2, Article II of the 1987 Constitution.

Section 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

<sup>103</sup> Supra at note 76.

<sup>104</sup> G.R. No. 118295, 02 May 1997.

<sup>105</sup> Id.

<sup>106</sup> G.R. No. 122156, 03 February 1997; Citations omitted and emphasis supplied.

the right conferred and the liability imposed are fixed by the constitution itself, so that they can be determined by an examination and construction of its terms, and there is no language indicating that the subject is referred to the legislature for action.

...

Applying these precepts to the WTO Agreement on Agriculture, the pertinent obligations read thusly:

...

**Part III: Article 4  
Market Access**


1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.
2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties<sup>[1]</sup>, except as otherwise provided for in Article 5 and Annex 5.

...

**Notes:**

[1] These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties...<sup>107</sup>

...

Finally, petitioner also regards RA 8178<sup>108</sup> as the local legislation that directly executes and implements the WTO Agreement on Agriculture. RA 8178 converted all existing quantitative restrictions on agricultural products, except rice, into tariffs. Relevant to this case, the said law did not address nor contemplate out-quota importations of rice, and deliberately excluded the same from its scope. 

---

<sup>107</sup> Citation omitted, emphasis in the original text and underscoring supplied.

<sup>108</sup> Supra at note 74.

Over petitioner's contention, such premise is not covered by the WTO Agreement, but by the Special Treatment for Rice in the Philippines (as well as the corresponding extension and Waiver). As earlier discussed, the Philippines duly secured special treatments from the provisions of the WTO Agreement on Agriculture, delaying the need to lift quantitative restrictions on rice imports until after 30 June 2017.

It is worth further noting that the restrictions on rice were only finally removed upon the enactment of RA 11203<sup>109</sup> (*An Act Liberalizing the Importation, Exportation and Trading of Rice, Lifting for the Purpose the Quantitative Import Restriction on Rice*) in 2019, which amends RA 8178. As far as rice is concerned, the WTO Agreement that dates back to 1994 was not directly addressed by local legislation until the enactment of RA 11203. Notwithstanding, its binding force as domestic law had already been settled in line with *pacta sunt servanda*<sup>110</sup>, a generally accepted principle of international law. Coincidentally, the same likewise forms part of domestic law, albeit *via* incorporation.

We thus echo in agreement the Third Division's conclusions<sup>111</sup>:

...

In sum, when [respondent] imported the rice shipments on 14 June 2018, there was no need for it to secure an NFA Import Permit (which is a form of quantitative restriction) since the Philippines could no longer impose quantitative restrictions on rice pursuant to the *WTO Agreement and its MTAs*.

...

All told, there is nothing that could prevent respondent from enforcing its rights when its claims are based upon law. As established thus far, the WTO Agreement and its MTAs partake of the same force and effect as any of our laws. Accordingly, in the absence of any reversible error, the Court *En Banc* has no other recourse but to dismiss this case and to leave undisturbed the Third Division's assailed actions.

---

<sup>109</sup> Supra at note 75.

<sup>110</sup> Vienna Convention on the Law of Treaties of 1969, Part III, Article 26.  
Article 26.


*"Pacta sunt servanda"*

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

<sup>111</sup> See Decision, *rollo*, p. 118; Emphasis and italics in the original text.


WHEREFORE, premises considered, the present Petition for Review filed by petitioner Commissioner of Customs is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 17 February 2022 and 14 September 2022, respectively, of the Third Division in CTA Case No. 9956, entitled *Sta. Rosa Farm Products Corporation v. Commissioner of Customs*, are **AFFIRMED**.

**SO ORDERED.**

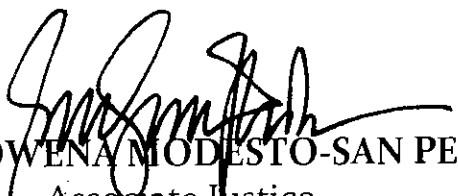
  
JEAN MARIE A. BACORRO-VILLENA  
Associate Justice

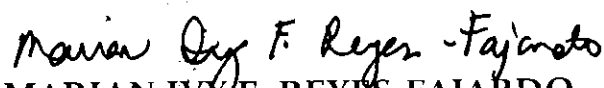
**WE CONCUR:**

  
ROMAN G. DEL ROSARIO  
Presiding Justice

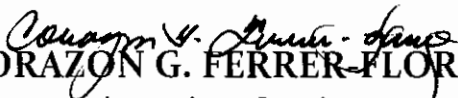
  
MA. BELEN M. RINGPIS-LIBAN  
Associate Justice

  
CATHERINE T. MANAHAN  
Associate Justice

  
MARIA ROWENA MODESTO-SAN PEDRO  
Associate Justice

  
MARIAN IVY F. REYES-FAJARDO  
Associate Justice

  
LANEE S. CUI-DAVID  
Associate Justice

  
CORAZON G. FERRER-FLORES  
Associate Justice

  
HENRY S. ANGELES  
Associate Justice

CERTIFICATION

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

  
ROMAN G. DEL ROSARIO  
Presiding Justice