REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF CUSTOMS,
Petitioner,

CTA EB NO. 2451
(CTA Case No. 9250)

Present:

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

- versus -

TOYOTA MOTOR PHILIPPINES CORPORATION,
Respondent.

Promulgated:
NOV 24 2022 4:29 pm

x - x

DECISION

BACORRO-VILLENA, J.:

Assailing the First Division's Decision dated 02 July 2020[1] (**assailed Decision**) and Amended Decision dated 19 January 2021[2] (**assailed Amended Decision**) in CTA Case No. 9250, entitled *Toyota Motor Philippines Corporation v. Commissioner of Customs*, petitioner Commissioner of Customs (**petitioner/COC**) filed the instant Petition for Review[3] invoking Section 3(b)[4], Rule 8, in relation to Section

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1 Division Docket, Volume IV, pp. 2027-2060; Penned by Presiding Justice Roman G. Del Rosario, with Associate Justice Esperanza R. Fabon-Victorino (Ret.) and Associate Justice Catherine T. Manahan, concurring.

2 Id., pp. 2250-2271; Penned by Presiding Justice Roman G. Del Rosario with Associate Justice Catherine T. Manahan, concurring.

3 Filed on 05 March 2021, *Rollo*, pp. 6-29.

2(a)(1)[5], Rule 4 of the Revised Rules of the Court of Tax Appeals[6] (**RRCTA**).

PARTIES TO THE CASE

Petitioner is the head of the Bureau of Customs (**BOC**), the government agency responsible for the assessment and collection of lawful revenues from imported articles and all other dues, fees, charges, fines, and penalties accruing under the tariff and customs laws.[7]

Respondent Toyota Motor Philippines Corporation (**respondent/TMP**), on the other hand, is a corporation duly organized and existing under the laws of the Philippines, engaged in the business of, among others, the sale and distribution in the Philippines of all kinds of motor vehicles, automobile products of every kind and description, motor vehicle parts, accessories, instruments, tools, supplies and equipment, as indicated in the Primary Purpose clause of its [Amended] Articles of Incorporation.[8] As part of its operations, respondent imports motor vehicles from Japan, including motor vehicles with cylinder capacity of above 3,000 cc[9] and Knocked Down (**KD**) components, parts, and/or accessories for the assembly of motor vehicles.[10]

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4 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.

5 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 Divisions 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[.]
...

6 A.M. No. 05-11-07-CTA.

7 Paragraph (par.) 6, Petition for Review, *Rollo*, p. 8.

8 Exhibits "P-2" and "R-2", Division Docket, Volume III, pp. 1357-1373.

9 Referring to cubic centimeters.

10 Par. 4, Petition for Review, in relation to par. 4 of the Verified Answer, Division Docket, Volume I, pp. 11 and 104.

FACTS OF THE CASE

On 17 March 2011, respondent filed with the District Collector (**District Collector**) of BOC – Collection District II-A (Port of Manila) a letter-request for a tax refund or credit[11] in the total amount of ₱231,659,005.76, which it paid on its Complete Built Up (**CBU**) importation from Japan during the period of January to June 2010, consisting of the following:

Customs duties	₱168,013,521.00
Excess value-added tax (**VAT**)	24,820,607.76
Excess excise taxes	38,824,877.00
Total	₱231,659,005.76

In the letter-request, respondent claimed that under Executive Order (**EO**) No. 905[12] enacted on 29 June 2010, implementing the Agreement between Japan and the Republic of the Philippines for an Economic Partnership Agreement (**JPEPA**), the applicable duty rate on motor vehicles with cylinder capacity above 3,000 cc is zero percent (0%) effective 01 January 2010.

Since it paid regular rate of customs duties, respondent argued that it should be entitled to the refund of customs duties paid on said importations. It also asserted that since EO No. 905 excluded customs duties on motor vehicles with cylinder capacity above 3,000 cc, there was a resulting overpayment of value-added tax (**VAT**) and excise tax on said importations as the tax bases thereof included customs duties.

On 12 April 2011, respondent filed with the same District Collector another letter-request for a tax refund or credit[13] in the total amount of ₱17,162,226.00 which it paid on its KD importation from Japan during the period of January to June 2010, consisting of the following:

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11 Exhibits "P-3" and "R-3", id., Volume III, pp. 1391-1405.

12 MODIFYING THE RATES OF IMPORT DUTY ON CERTAIN IMPORTED ARTICLES AS PROVIDED FOR UNDER THE TARIFF AND CUSTOMS CODE OF 1978, AS AMENDED IN ORDER TO IMPLEMENT THE AMENDED TARIFF REDUCTION SCHEDULE ON MOTOR VEHICLES AND COMPONENTS, PARTS AND/OR ACCESSORIES UNDER EXECUTIVE ORDER 767 SERIES OF 2008 UNDER THE AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND JAPAN FOR AN ECONOMIC PARTNERSHIP.

13 Exhibits "P-4" and "R-4", Division Docket, Volume III, pp. 1407-1422.

Customs duties	₱14,701,753.00
Excess VAT	2,460,473.00
Total	₱17,162,226.00

Respondent maintained that the JPEPA provided for the elimination of the applicable duty rate on KD importation from its "date of entry into force" on 08 October 2008 and that the 0% duty on KD importation under EO No. 905 shall be applied retroactively effective 11 December 2008.

Considering that respondent paid the customs duties for its KD importations from January to July 2010, respondent averred that it should be entitled to the refund of its payment for the said customs duties. It also asserted that similar to above, it also overpaid VAT on importations during the same period as the tax bases thereof included customs duties.

Alleging inaction on the part of the BOC on its administrative claims for refund, respondent filed its prior Petition for Review[14] on 28 January 2016.

On 21 March 2016, petitioner filed a Verified Answer[15], with the following affirmative defences, to wit: (1) the prior petition is dismissible for lack of cause of action due to respondent's failure to exhaust all administrative remedies available, *i.e.*, respondent should have invoked first the authority of petitioner by requesting that he or she direct the District Collector to perform the latter's mandate (to act on respondent's claim) under Section 1708[16] of Presidential Decree

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14 Id., Volume I, pp. 10-31.

15 Id., pp. 104-116.

16 SEC. 1708. Claim for Refund of Duties and Taxes and Mode of Payment. - All claims for refund of duties shall be made in writing, and forwarded to the Collector to whom such duties are paid, who upon receipt of such claim, shall verify the same by the records of his Office, and if found to be correct and in accordance with law, shall certify the same to the Commissioner with his recommendation together with all necessary papers and documents. Upon receipt by the Commissioner of such certified claim he shall cause the same to be paid if found correct.

If as a result of the refund of customs duties there would necessarily result a corresponding refund of internal revenue taxes on the same importation, the Collector shall likewise certify the same to the Commissioner who shall cause the said taxes to be paid, refunded, or tax credited in favor of the importer, with advice to the Commissioner of Internal Revenue.

(**PD**) No. 1464[17], as amended, otherwise known as the Tariff and Customs Code of the Philippines (**TCCP**) of 1978; and, (**2**) the presumption of regularity of official function finds application in the case and not the principle of *solutio indebiti*.

On 08 April 2016, respondent filed its "Reply (to Respondent's Verified Answer dated 14 March 2016)"[18] where it insisted that its claim before the First Division falls within the exception to the rule on exhaustion of administrative remedies. It likewise reiterated that it is the principle of *solutio indebiti* that should apply to the case at bar.

After the trial, the First Division issued the assailed Decision.[19] The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, in view of the foregoing, the present Petition for Review filed by Toyota Motor Philippines Corporation is hereby **PARTIALLY GRANTED**. Accordingly, [petitioner] Commissioner of Customs is **ORDERED TO REFUND AND/OR ISSUE A TAX CREDIT CERTIFICATE** in favor of [respondent] Toyota Motor Philippines Corporation in the amount of **₱119,858,119.77**, representing excess custom duties and value-added tax paid on its importations from Japan of Complete Built Up motor vehicles with a cylinder capacity above three thousand cubic centimeters (3,000 cc) for the period January 1 to June 30, 2010.
>
> **SO ORDERED.**
>
> ...

Respondent filed a Motion for Partial Reconsideration[20] (**MPR**) on 22 July 2020 while petitioner filed a Motion for Reconsideration[21] (**MR**) on 19 August 2020. Respondent thus filed its Comment/Opposition[22] to petitioner's MR on 12 October 2020. Thereafter, the First Division promulgated the assailed Amended Decision.[23] The dispositive portion of which reads:

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17 A DECREE TO CONSOLIDATE AND CODIFY ALL THE TARIFF AND CUSTOMS LAWS OF THE PHILIPPINES.
18 Division Docket, Volume I, pp. 123-130.
19 Supra at note 1; Emphasis in the original text.
20 Division Docket, Volume IV, pp. 2063-2111.
21 Id., pp. 2183-2197.
22 Id., pp. 2210-2221.
23 Supra at note 2; Emphasis in the original text.

...

WHEREFORE, premises considered, [petitioner's] **Motion for Reconsideration (of the Decision dated 2 July 2020)** filed on August 19, 2020 is **DENIED** for lack of merit.

[Respondent's] **Motion for Partial Reconsideration (of the Decision dated 2 July 2020)** filed on July 22, 2020 is **PARTIALLY GRANTED**. Accordingly, [petitioner] Commissioner of Customs is hereby **ORDERED** to refund or issue a tax credit certificate in favor of [respondent] Toyota Motor Philippines Corporation the amount of **₱144,128,478.37**, representing excess customs duties, excess excise taxes and value-added tax paid on its importations from Japan of Complete Built Up motor vehicles with a cylinder capacity above three thousand cubic centimeters (3,000 cc) and Knocked-Down components, parts, and/or accessories for the assembly of motor vehicles for the period January 1 to June 30, 2010.

SO ORDERED.

...

Unsatisfied, petitioner filed the instant Petition for Review[24] with the Court *En Banc* on 05 March 2021. On 25 October 2021, respondent filed its Comment/Opposition.[25] Thus, on 25 November 2021, the case was submitted for decision.[26]

ISSUES

In the instant petition, petitioner submits the following issues for the Court *En Banc*'s resolution:

I.

WHETHER THE HONORABLE FIRST DIVISION HAS JURISDICTION TO TAKE COGNIZANCE OF RESPONDENT TOYOTA MOTOR PHILIPPINES CORPORATION'S (RESPONDENT'S) PETITION DESPITE THE FAILURE OF THE LATTER TO EXHAUST ADMINISTRATIVE REMEDIES; AND,

II.

WHETHER EXECUTIVE ORDER NO. 905 CAN BE APPLIED RETROACTIVELY WITH RESPECT TO THE SUBJECT IMPORTS OF RESPONDENT TOYOTA MOTOR PHILIPPINES CORPORATION.

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24 Supra at note 3.
25 *Rollo*, pp. 393-425.
26 See Resolution dated 25 November 2021, id., pp. 518-519.

ARGUMENTS

Petitioner argues that the First Division had no jurisdiction over respondent's claims for tax refund or credit considering that it failed to exhaust administrative remedies before filing the prior petition. According to petitioner, the fact that the First Division had no jurisdiction is evident from the provisions of Sections 1708[27] and 2313[28] of the TCCP of 1978, as amended, as well as Section 3[29], Rule 8 of the RRCTA.

Petitioner adds that a plain reading of Section 7(a)(4)[30] of Republic Act (**RA**) No. 1125[31], as amended, reveals that this Court may only take cognizance of an appeal filed after the COC renders a decision. Petitioner distinguishes between claims filed with the Commissioner of Internal Revenue (**CIR**) and the COC wherein the inaction of the former is appealable to this Court but not the inaction on the part of the latter. According to petitioner, the Supreme Court has already settled this matter in the 1989 case of *Tomas Chia, et al. v.*

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27 Supra at note 16.

28 SEC. 2313. *Review by Commissioner.* – The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, file a written notice to the Collector with a copy furnished to the Commissioner of his intention to appeal the action or decision of the Collector to the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision: *Provided,* That when an appeal is filed beyond the period herein prescribed, the same shall be deemed dismissed.
...

29 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. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

30 SEC. 7. *Jurisdiction.* - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
...
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[.]
...

31 AN ACT CREATING THE COURT OF TAX APPEALS.

The Acting Collector of Customs, et al.[32] and 1968 case of *Southwest Agricultural Marketing Corporation v. The Secretary of Finance, et al.*[33]

Petitioner also faults the First Division for failing to apply the doctrines of exhaustion of administrative remedies and primary jurisdiction. For petitioner, a taxpayer who is dissatisfied with the decision of the District Collector should file an appeal to the COC pursuant to Section 2313[34] of the TCCP of 1978, as amended, and invoke the COC's authority to direct the District Collector to act on the taxpayer's claim for refund, on the bases of Section 29[35] and 30[36], Chapter 6, Book IV of EO No. 292 or the Administrative Code of 1987.

In the above regard, petitioner invokes the rule that the government is not bound by the neglect or omission of its agents, especially in the field of taxation. Petitioner thus concludes that respondent's remedy is not to go straight to this Court but to file an action with petitioner.

As to the merits of the case, petitioner maintains that EO No. 905 has no retroactive effect and does not cover respondent's subject importations. Petitioner emphasizes that EO No. 905 was signed only on 29 June 2010 and took effect on 01 July 2010, following its complete publication in the Official Gazette.

In insisting that laws shall have no retroactive effect unless the contrary is provided, petitioner cites Article 4[37] of the Civil Code of the Philippines and Section 19[38], Chapter 5, Book I of the Administrative Code of 1987. According to petitioner, EO No. 905 is silent of any suggestion that its provisions shall be given retroactive effect. On the

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32 G.R. No. L-43810, 26 September 1989.
33 G.R. No. L-24797, 08 October 1968.
34 Supra at note 28.
35 SEC. 29. *Powers and Duties in General.* — The head of bureau or office shall be its chief executive officer. He shall exercise overall authority in matters within the jurisdiction of the bureau, office or agency, including those relating to its operations, and enforce all laws and regulations pertaining to it.
36 SEC. 30. *Authority to Appoint and Discipline.* — The head of bureau or office shall appoint personnel to all positions in his bureau or office, in accordance with law. In the case of the line bureau or office, the head shall also appoint the second level personnel of the regional offices, unless such power has been delegated. He shall have the authority to discipline employees in accordance with the Civil Service Law.
37 ART. 4. Laws shall have no retroactive effect, unless the contrary is provided.
38 SEC. 19. *Prospectivity.* — Laws shall have prospective effect unless the contrary is expressly provided.

contrary, Sections 2[39] and 6[40] thereof clearly provide that it shall take effect only on the date of its publication (which was on 01 July 2010).

On the other hand, respondent raises formal defects in the instant petition. According to respondent, the petition was not accompanied by the material portions of the record and other supporting papers when it was filed, and that it was not served on the First Division as required by Sections 5[41] and 6[42], Rule 43 of the Rules of Court.

As to the jurisdiction of the First Division, respondent maintains that RA 1125, as amended, clearly provides that this Court's jurisdiction does not only cover decisions rendered by the COC but also "other matters" arising under the Customs Law or other laws administered by the BOC. Moreover, the factual circumstances surrounding respondent's claim presented an application of the exception to the doctrine of exhaustion of administrative remedies considering the unreasonable delay and inaction that had caused irretrievable prejudice to respondent.

Respondent also agrees with the First Division's declaration that it is the intent of EO No. 905 to implement the 0% duty starting 01 January 2010 consistent with the treaty obligations under JPEPA. It adds that EO No. 905's title readily reveals that it aims to implement the tariff reductions under the JPEPA, to wit:

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39 SEC. 2. From the date of effectivity of this Executive Order, all articles listed in the Annex which are entered or withdrawn from warehouses in the Philippines for consumption shall be imposed the rates of duty therein prescribed subject to compliance with the Rules of Origin as provided for in the Agreement.

40 SEC. 6. This Executive Order shall take effect immediately following its complete publication in the Official Gazette or in a national newspaper of general circulation.

41 SEC. 5. *How appeal taken.* – Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

...

42 SEC. 6. *Contents of the petition.* – The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

> ...
> MODIFYING THE RATES OF IMPORT DUTY ON CERTAIN IMPORTED ARTICLES AS PROVIDED FOR UNDER THE TARIFF AND CUSTOMS CODE OF 1978, AS AMENDED **IN ORDER TO IMPLEMENT THE AMENDED TARIFF REDUCTION SCHEDULE ON MOTOR VEHICLES AND COMPONENTS, PARTS AND/OR ACCESSORIES** UNDER EXECUTIVE ORDER 767 SERIES OF 2008 UNDER THE AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND JAPAN FOR AN ECONOMIC PARTNERSHIP.[43]
> ...

Furthermore, respondent debunks petitioner's insistence that the procedure laid down in Sections 1708 and 2313 of the TCCP of 1978, as amended, should be followed. Rather, respondent maintains that inasmuch as its payment to petitioner was made by mistake due to a difficult question of law, it is the principle of *solutio indebiti* that applies, following the Supreme Court's pronouncement in *Commissioner of Customs v. Philippine Phosphate Fertilizer Corporation*[44] and this Court in *Commissioner of Customs, et al. v. Dole Philippines, Inc.*[45] Hence, its judicial claim was timely filed within the six (6)-year period provided under Article 1145(2)[46] of the Civil Code of the Philippines.

More importantly, it is clear from the evidence presented before the First Division that respondent complied with the necessary submissions and was cleared by the concerned divisions hence the pertinent certifications issued; only that there was inordinate delay in the processing of its claims which warranted the judicial intervention.

RULING OF THE COURT *EN BANC*

At the onset, it is settled that this Court may not limit itself to the stipulated issues as it may also rule upon related issues necessary to achieve an orderly disposition of the case. The said rule was recently reiterated in *Republic of the Philippines, represented by the Bureau of*

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43 Emphasis supplied.
44 G.R. No. 144440, 01 September 2004.
45 CTA EB No. 1142 (CTA Case No. 8409), 05 January 2015.
46 ARTICLE 1145. The following actions must be commenced within six years:
...
(2) Upon a quasi-contract.

Internal Revenue v. First Gas Power Corporation[47], citing *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[48] Such related issues include whether the Court *En Banc* properly acquired jurisdiction over the instant petition.

It would be recalled that after the First Division promulgated the assailed Decision, petitioner filed an MR while respondent filed an MPR. Finding no merit in petitioner's MR and only partial merit in respondent's MPR, the First Division promulgated the assailed Amended Decision. Notably, petitioner filed the instant Petition for Review with the Court *En Banc* without filing an MR on the assailed Amended Decision.

In *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*[49], the Supreme Court acknowledged that since the amended decision modified and increased the taxpayer's entitlement, and therefore, a different decision, it is a proper subject of an MR, to wit:

> ...
> At the outset, the Court deems it proper to address CE Luzon's claim that the CIR filed a "second" motion for reconsideration of the CTA Division's January 19, 2010 Amended Decision. Considering that a second motion for reconsideration is a prohibited pleading and, thus, did not toll the period to file an appeal, CE Luzon maintained that the June 24, 2009 Decision had long become final and executory.
>
> Under Section 3, Rule 14 of the Revised Rules of the Court of Tax Appeals, an amended decision is issued when there is any action **modifying or reversing a decision** of the CTA *En Banc* or in Division. Pursuant to these parameters, it is clear that the CIR's motions for partial reconsideration - *i.e., (a)* motion for partial reconsideration of the June 24, 2009 Decision; and (b) motion for partial reconsideration of the January 19, 2010 Amended Decision - assailed separate and distinct decisions that were rendered by the CTA Division. Notably, its amended decision **modified and increased** CE Luzon's entitlement to a refund or tax credit certificate in the amount of P17,277,938.47. Essentially, it was therefore a different decision and, hence, the proper subject of a

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47 G.R. No. 214933, 15 February 2022.
48 G.R. No. 183408, 12 July 2017.
49 G.R. No. 200841-42, 26 August 2015; Citations omitted, emphasis and italics in the original text.

motion for reconsideration anew on the part of the CIR. Thus, CE Luzon's procedural objection must fail.

...

Moreover, in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*[50], the Supreme Court likewise ruled that failure to move for a reconsideration of an amended decision of the Court in Division is a ground for the dismissal of its Petition for Review before the Court *En Banc, viz:*

...
An appeal to the CTA En Banc must be preceded by the filing of a timely motion for reconsideration or new trial with the CTA Division.

Section 1, Rule 8 of the Revised Rules of the CTA states:

SECTION 1. *Review of cases in the Court en banc.* - In cases falling under the exclusive appellate jurisdiction of the Court en banc, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

Thus, in order for the CTA *En Banc* to take cognizance of an appeal *via* a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word "must" indicates that the filing of a prior motion is mandatory, and not merely directory.

The same is true in the case of an amended decision. Section 3, Rule 14 of the same rules defines an amended decision as "[a]ny action modifying or reversing a decision of the Court en banc or in Division." As explained in *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration.

In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA *En Banc*. Thus, the CTA *En Banc* did not err in denying the CIR's appeal on procedural grounds.

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50 G.R. No. 201530, 19 April 2017; Citations omitted, emphasis and italics in the original text.

> Due to this procedural lapse, the Amended Decision has attained finality insofar as the CIR is concerned. The CIR, therefore, may no longer question the merits of the case before this Court. Accordingly, there is no reason for the Court to discuss the other issues raised by the CIR.
>
> ...

Thus, pursuant to Section 1[51], Rule 8 of the RRCTA, for petitioner's failure to file an MR on the assailed Amended Decision prior to the filing of the instant petition before the Court *En Banc*, the same must be dismissed.

It is noted that even if the Court *En Banc* were to consider that there exists no procedural infirmity in the filing of the present case, the outcome will be the same considering that the First Division correctly held that: (1) it acquired jurisdiction over the prior petition; and, (2) it is the intention of EO No. 905 to implement 0% duties on importations of motor vehicles with cylinder capacity exceeding 3,000 cc starting 01 January 2010, as would be briefly discussed below.

Here, petitioner claims that the First Division did not validly acquire jurisdiction over the prior petition as RA 1125, as amended, only confers upon this Court the power to review the decisions of the COC himself or herself and that the provision on the "inaction" is applicable only to the CIR but not to the COC.

We do not agree.

In the case of *The Bureau of Customs, et al. v. Jade Bros. Farm and Livestock, Inc.*[52], the Supreme Court ruled categorically that the Court in Division could already review the actions of the District Collector, as follows:

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51 SEC. 1. *Review of Cases in the Court En Banc.* — In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

52 G.R. No. 246343, 18 November 2021; Citations omitted, italics in the original text and emphasis supplied.

...

Given the foregoing, the point of contention is really whether the CTA Third Division could, under the circumstances, entertain JBFLI's petition for review and give due course thereto in CTA Case No. 8886. This issue hinges on the sub-questions of (1) whether the District Collector's actions were already appealable to the CTA Division; and (2) whether JBFLI failed to exhaust administrative remedies. The Court shall jointly address these two matters.

The Court of Tax Appeals Division could already review the actions of the District Collector

...

Generally, the actions of the District Collector are appealable to the Commissioner. Yet, appealing the notice and conduct of the [public auction] would be pointless since, by that time, the sale of the rice shipments would be *fait accompli* — there would be nothing to release to JBFLI since the rice shipments had already been auctioned off. Owing to the pressing circumstances attendant in the auction of seized perishable goods, further appeal on such action was rendered impracticable. Crucially, statutory construction enjoins that laws be construed in a manner that avoids absurdity or unreasonableness.

In another sense, **the circumstances squarely fell within several exceptions to the principle of exhaustion of administrative remedies**, particularly:

1. When further recourse would be [an] exercise in futility, since, as discussed above, JBFLI would no longer be able to secure the release of its rice shipments even if it appealed to the Commissioner.

2. When the party invoking the doctrine is estopped, since the very conduct of the October 17, 2014 auction betrays and affirms the earlier resolve not to grant the motion for release, although made only more explicit after the fact.

3. **When there is unreasonable delay or official inaction leading to prejudice**, considering that as early as its June 2, 2014 Letter, JBFLI already requested the release of the shipments, but the District Collector never directly acted on such matter, up until the October 17, 2014 Auction — more than four months of inaction.

4. Where the absence of any plain, speedy, and adequate remedy calls for immediate judicial intervention, as the auctioning off of the rice shipments is irreversible and

> petitioners can no longer restitute the same to JBFLI, and considering that the CTA Division could very well act on and enjoin, as it had with the 20-day TRO, the then-impending auction of the rice shipments.
>
> **All told, JBFLI had every right to bypass the Commissioner, and directly seek recourse with the CTA Division.**
>
> ...

The records of the case will show that respondent filed its administrative claims on 17 March 2011 and 12 April 2011, respectively; while, the prior petition was filed on 28 January 2016. As found by the First Division, more than four (4) years had lapsed from the filing of the administrative claims until respondent decided to seek judicial intervention on the District Collector's inaction. As it appears, there was an unreasonable delay on the part of the District Collector (in resolving respondent's claims) resulting thus in the latter's prejudice.

From the foregoing, the First Division correctly applied an exception to the doctrine of exhaustion of administrative remedies – when there is unreasonable delay or official inaction leading to prejudice.

As to the applicability of EO No. 905 (signed on 29 June 2010 and published on 01 July 2010) to respondent's importations from January to June 2010, We agree that it is the intention of the said executive order to implement the 0% duties on importations of motor vehicles with cylinder capacity exceeding 3,000 cc starting 01 January 2010. We thus quote with approval the First Division's disquisition on this matter:

> ...
>
> Thus, under the JPEPA, both Japan and the Philippines committed to eliminate or reduce their respective customs duties on specified goods imported from the other country, to be implemented according to the schedule of duty rates annexed to the full text of the JPEPA. Both countries also agreed to eliminate other duties or charges imposed in connection with the importation of goods originating from the other country.

Among the goods which the Philippines agreed to eliminate or reduce duty rates on are motor vehicles and their parts imported from Japan.

Under Clause 7, Part 3 (Notes for Schedule of the Philippines) of Annex 1 to the JPEPA, the applicable duty rate on motor vehicles with cylinder capacity of above 3,000 cc, or the items subject of [respondent's] CBU Importation, shall be as follows:

> "7. (a) The customs duty shall be eliminated as follows:
>
> (i) 30.0 percent as from the date of entry into force of this Agreement; and
>
> (ii) **free as from January 1, 2010.**"

Meanwhile under Clause 4, Section 1, Part 3 (Notes for Schedule of the Philippines) of Annex I to the JPEPA, the applicable duty rate of the items subject of [respondent's] KD Importation, shall be eliminated as from the date of entry into force of the JPEPA, or on October 8, 2008. The said clause provides as follows:

> "4. (a) (i) The customs duty for the originating goods which are not specified for application of import duties in EO 262 shall be eliminated as from the date of entry into force of this Agreement.
>
> (ii) The customs duty for the originating goods which are specified for the application of import duties in EO 262 shall be eliminated as follows:
>
> (aa) the most-favored-nation applied rate at the time of importation in accordance with EO 262 as from the date of entry into force of this Agreement; and
>
> (bb) **free as from January 1, 2010.**"

Furthermore, Tariff Item Number 8703.90 under the JPEPA also refers to "components, parts and/or accessories imported from one or more countries for assembly of motor vehicles by participants in the commercial motor vehicle development program" as among those covered by the KD Importation.

On November 7, 2008, EO No. 767 was signed into law, which modified the rates of duties on certain articles imported from Japan, in compliance with the JPEPA. Under EO No. 767, the rate of duties to be imposed on importations of motor vehicle components, parts and/or accessories for assembly will be 1% starting from April 1, 2008.

However, EO No. 767 also provided that such rates will be subject to negotiation in 2009.

Thereafter, EO No. 905 was signed by the President on June 29, 2010 to implement the duty rate reductions on motor vehicles and components under the JPEPA. Section 1 of EO No. 905 provides:

> "**SECTION 1. The articles specifically listed in the Annex** (Articles Granted Concessions under the Agreement) hereof, as classified under Section 104 of the Tariff and Customs Code of 1978, as amended, **shall be subject to the rates of duty in accordance with the schedule indicated in Columns 3 to 6 of said Annex**. The rates of duty so indicated shall be accorded to imports coming from Japan as a Party to the Agreement."

According to the schedule in Column 5 of said Annex, motor vehicles "of a cylinder capacity exceeding 3,000 cc" shall be subject to a duty rate of 0% effective January 1, 2010.

EO No. 905 also provided for revised JPEPA rates of duty for motor vehicle components covered under AHTN Codes 8703.90.51B, 8703.90.52B, and 8703.90.53B. The description of and the applicable customs duty rates for such goods are provided in the Annex to EO No. 905 as follows:

AHTN Codes	Description	Applicable JPEPA Rates of Duty as of December 11, 2008
8703.90.51B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity not exceeding 1,800 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0
8703.90.52B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity exceeding 1,800 cc but not exceeding 2,000 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0
8703.90.53B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity exceeding 2,000 cc but not exceeding 2,500 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0

> Clearly, it is the intent of EO No. 905 to implement the 0% duties on importations of motor vehicles with cylinder capacity exceeding 3,000 cc starting **January 1, 2010**. This is in consonance with the JPEPA which provided for the elimination of customs duties on motor vehicles with cylinder capacity of above 3,000 cc starting January 1, 2010. However, EO No. 905, which implemented said elimination of customs duties, came into existence only on June 29, 2010. Thus, [respondent's] CBU and KD Importations made during January to June 2010 were subjected to the regular duty rates.[53]
>
> ...

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Commissioner of Customs on 05 March 2021 is hereby **DISMISSED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(I concur in the result)
ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[53] Citations omitted and emphasis in the original text.

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

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