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Whom Must the Customs Authority Notify Regarding a seizure of Goods?

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Background

When the Customs Authority seizes, forecloses, or confiscates goods from a certain individual, it is common that the owner of the goods attempts to argue in court that the goods do not belong to that certain individual, and the Customs Authority should therefore release the goods and return them to their rightful owner. Various procedural arguments relating to the seizer process and procedural irregularities are also frequently voiced in such cases.

In the following article we will review the ruling of the Ramla Magistrate Court, which rejected a claim filed by an importer in order to release goods seized in the possession of a different person as he was entering the country. The court determined that the seizer by the Customs Authority was performed in accordance with the law.

The court condemned the importer for not submitting the claim within the timeframe set by law, and for not ensuring that the entity claimed to be the owner of the goods was added to the lawsuit in time.

Case Facts and Detailed Arguments:

In December 2009, a Hong-Kong citizen arrived in Israel while in possession of a large quantity of gold and jewelry which had to be declared, and attempted to enter through the gate for those with nothing to declare. The Customs Authority officials seized the goods, notifying the foreign national that they are confiscated in accordance with the Customs Ordinance, and presented him with written notification that he may file a claim in order to have the seized goods returned. The notification was given solely to the foreign national from whom the goods were seized, with no further notification to the claimed owner of the goods.

In the first Statement of Claim, a different entity - the importer - claimed that he was the actual owner of the goods, and not the foreign national from whom they were seized. The importer later asked to amend the Statement of Claim and add a foreign based company, claiming the goods are owned by the company, or both the company and the importer.

In the amended Statement of Claim, the importer argued that the Customs Authority officials failed to notify him of the seizure of the goods, which they were required to as he is the actual owner of the goods. In addition, the importer claimed that no hearing was held before the foreclosure of the goods, that he was in no way a party to the attempt to smuggle the goods, and that the foreign national's attempt to enter the country with the jewelry was a mistake of the foreign national, since the original plan was to transfer the jewelry to the U.S. through Jordan, without them entering Israel.

The foreign national was questioned by the police following the seizure, and admitted he did not declare the goods as required by law. He also admitted attempting to smuggle the goods on behalf of the importer.

The Customs Authority officials argued that the notification presented to the foreign national sufficed as notification to the owner of the goods, since they were seized in his possession and he acted as the owner's agent. The Customs Authority added that the claim has been invalid by virtue of statute limitation, as the actual owner is a company Ltd. , which was added as a claimant only after the Statement of Claim was amended, which was after the time set by the Customs Ordinance.

The Court's Ruling:

The court determined that according to the evidence presented, the goods are owned by the foreign company, and not the importer who submitted the first claim. Therefore, the court ruled that the importer has no cause to demand the release of the goods, as they do not belong to him.

As for the Customs Authority's argument that the claim has been invalid by virtue of statute limitation, the court ruled that since the foreign company was added as a claimant only in the amended Statement of Claim, the claim was filed after the time set by the Customs Ordinance, and has been invalid by virtue of statute limitation.

The court accepted the Customs Authority argument that the notification presented to the foreign national sufficed, fulfilling its legal obligation to notify the owner of the goods.

As for the reasonability of the Customs Authority's officials' justifications for the seizure, the court determined that the decision to seize the goods was reasonable, and that the evidence, the

admissions of the foreign national regarding the attempted smuggling of goods into Israel, was a justifiable cause for the seizer.

In light of the above, the court rejected the claim for releasing the goods, and charged the importer and the foreign company with legal expenses amounting to 10,000 ILS, plus linkage differentials and interest.

[TA (Ramla Magistrate Court) 38073-03-10 Canoati and Others V. The State of Israel - The Tax Authority, Customs & VAT Commissioner of Seizers and Investigations, ruling given on 21.12.2015, presiding judge: Zecharia Yeminy. Representatives not mentioned.]

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**The above review is a summary. The information presented is for informative purposes only,
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