



Republic of the Philippines
Office of the President
DANGEROUS DRUGS BOARD

3/F, DDB – PDEA Building, NIA Road, National Government Center, East Triangle, Diliman, Quezon City, NCR, Philippines
P.O Box No. 3682 Manila, Tel. No. 929-1753, Website: www.ddb.gov.ph, E-mail: info@ddb.gov.ph

BOARD RESOLUTION NO. 1
Series of 2018

SUBJECT: AFFIRMING THE RESOLUTION OF THE DDB COMMITTEE ON APPEALS IN CASE NO. 026 ENTITLED “CHEMISOL, INC., REPRESENTED BY ITS GENERAL MANAGER, JERRY T. DY, PETITIONER, VERSUS PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA), RESPONDENT”

WHEREAS, Section 77 of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 provides that the Board shall serve as the policy – making and strategy–formulating body in the planning and formulation of policies and programs on drug abuse prevention and control;

WHEREAS, Section 81 of the same law provides that the Board is empowered to promulgate such rules and regulations as may be necessary to carry out the purposes of the law;

WHEREAS, the Board, through Board Regulation No. 5, Series of 2008, created the DDB Committee on Appeals to receive, pass upon and make recommendations to the Board on all cases covered by any Board Regulation and other Board issuances;

WHEREAS, the Committee received a Petition dated December 9, 2015 entitled “CHEMISOL, INC., REPRESENTED BY ITS GENERAL MANAGER, JERRY T. DY, PETITIONER, VERSUS PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA), RESPONDENT”;

WHEREAS, after evaluation and investigation, the Committee has come up with its recommendation on the above-entitled case, through a Resolution, a copy of which is attached hereto and is made an integral part hereof.

WHEREAS, during the 175th Regular Meeting of the Board, the matter was agreed upon that it be subjected to *Ad Referendum*;

WHEREAS, at least nine (9) Members of the Board constituting a quorum thereof had indicated and signed their agreement with the recommendations of the Appeals Committee relative to the aforesaid case;

WHEREFORE, be it **RESOLVED**, as it is hereby **RESOLVED**, that the Board affirms the recommendation of the Committee as embodied in its Resolution dated April 7, 2017.

APPROVED and ADOPTED this 24th day of January, in the year of Our Lord, 2018 in Quezon City.


Secretary CATALINO S. CUY
Chairman, Dangerous Drugs Board

Attested:


Undersecretary EARL P. SAAVEDRA
Secretary of the Board

REPUBLIC OF THE PHILIPPINES
DANGEROUS DRUGS BOARD
APPEALS COMMITTEE

CHEMISOL, INC., represented by its General
Manager, JERRY T. DY,

Petitioner,

Case No. 026

-versus-

PHILIPPINE DRUG ENFORCEMENT AGENCY,
Respondent.

x-----x

RESOLUTION

This resolves the Appeal filed by Chemisol, Inc. ("Chemisol") seeking to lift the sanctions provided for in Section 51 (1) of Regulation No. 1, Series of 2014 being implemented by Philippine Drug Enforcement Agency ("PDEA").

FACTS OF THE CASE

Petitioner Chemisol is engaged in the sale and distribution of various chemicals. At the time of the alleged violation, it had a license to handle controlled precursors and essential chemicals and authority to import methyl ethyl ketone ("MEK"), Acetone and Toluene. All regulatory documents were issued by PDEA pursuant to Regulation No. 1, Series of 2014 of the Dangerous Drugs Board.

As per Pro Forma Invoice of Guangzhou Chemicals Co., Limited ("GLCCL") annexed to its Petition, Petitioner Chemisol ordered 38.40 metric tons of MEK with 99.7% purity from GLCCL in China on August 20, 2015. PDEA approved Special Permit No. 17945 dated September 17, 2015 which was applied for by Petitioner Chemisol in relation to its MEK shipment.

On October 31, 2015, 19 metric tons of MEK ordered by Petitioner from GLCCL arrived at the Port of Manila. A copy of the bill of lading covering said shipment was presented by Petitioner Chemisol. On November 8, 2015, another 19 metric tons of MEK arrived at the same Port, and the bill of lading covering said shipment showed that the consignee was Petitioner Chemisol. On November 13, 2015, Petitioner Chemisol wrote the Director General of PDEA requesting for a permit for the second shipment of MEK.

In response, PDEA issued a letter dated November 24, 2015, which ordered Petitioner Chemisol to pay the amount of Php 131, 681.57 for violation of Section 11 (2) of Regulation No. 1, Series of 2014 which provides:

Section 11. Grant of Import, Export or Transit Permits

1. xxx xxx xxx
2. An approved import permit, export permit or transit permit is valid for a single shipment only.

xxx xxx xxx

ISSUE

Whether or not Petitioner Chemisol is liable for violation of Section 11 (2) of Regulation No. 1, Series of 2014.

DISCUSSION

Petitioner Chemisol is liable for violation of Section 11 (2) of Regulation No. 1, Series of 2014.

In order to determine the intention of the Regulation, there is a need to review the afore – quoted provision in relation to the previous issuance of the Board covering all transactions involving dangerous drugs, controlled precursors and essential chemicals, which is Regulation No. 3, Series of 2003.

Section 11. Grant of import, export or transit permits

1. xxxxxx xxx
2. An approved import permit, export permit or transit permit may allow import, export or transit in more than one consignment, provided however that the total amount duly approved is not exceeded.

xxx xxx xxx

It is clear from the quoted provision that a single import permit may be utilized in more than one consignment, the only condition being that the total amount of controlled substance imported, referring to dangerous drugs, controlled precursors or essential chemicals, shall not exceed the amount indicated in the import permit.

However, this provision found in Regulation No. 3, Series of 2003 can no longer be found in Regulation No. 1, Series of 2014. Instead, a new provision was added to replace the afore – quoted provision, which provides:

“An approved import permit, export permit or transit permit is valid for a single shipment only.”

Thus, it is the intention of the Board to no longer allow multiple consignments covered by a single import permit as provided for in Regulation No. 3, Series of 2003. Instead, the one permit, one shipment rule now applies as provided for in Regulation No. 1, Series of 2014.

In order to comply with the new provision, Petitioner Chemisol should have properly coordinated with its foreign supplier and informed the latter that the one permit, one shipment rule applies in our jurisdiction.

WHEREFORE, the Committee DENIES the Petition of Chemisol Inc.

SO ORDERED.

April 7, 2017, Quezon City.

Lucito Tan

ATTY. LUCITO A. TAN
(Representing the Integrated Bar of the Philippines)
Chairman

(see attached document showing concurrence)
UNDERSECRETARY REYNANTE B. ORCEO
(Representing the Department of Justice)
Vice Chairman

UNDERSECRETARY RICARDO A. DAVID, JR.
(Representing the Department of National Defense)
Member

Rommel L. Garcia
UNDERSECRETARY ROMMEL L. GARCIA, MD
(Representing the Dangerous Drugs Board)
Member

Maria Belen Angelita V. Matibag
UNDERSECRETARY MARIA BELEN ANGELITA V. MATIBAG, MGM, CSEE
(Executive Director, Dangerous Drugs Board)
Member