

[BOC MEMORANDUM, April 27, 1999]

**HOLDING THE IMPLEMENTATION OF THE DECISION ON
CUSTOMS NO. 99-004**

You are hereby directed to put on hold the implementation of the Decision on Customs Case No. 99-004 dated 21 April 1999 entitled "R.P. vs. M/V 'Martha' and 11,000 bags of rice" in view of the following observations:

1. The District Collector had resolved the case on its merits decreeing the forfeiture of the subject vessel and its cargo.
2. On appeal, the Office of the Deputy Commissioner for Revenue Monitoring, in the exercise of its delegated authority, reversed the decision and decreed the application of Settlement by Fine provided for in Section 2307, TCCP as amended. Said decision on appeal was adverse to the government, hence, by law should have been referred to the Secretary of Finance for automatic review.
3. The reception of new evidence on appeal is of doubtful legality as these evidence should have been referred to the District Collector for evaluation.
4. The offer of Settlement on appeal should have been also referred to the District Collector for determination of whether fraud exists to bar application of the settlement provision of the TCCP. It is noted that claimant submitted spurious documents which per CMO 86-92 constitute fraud.

For strict compliance.

Adopted: 27 April 1999

(SGD.) NELSON A. TAN
Acting Commissioner



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