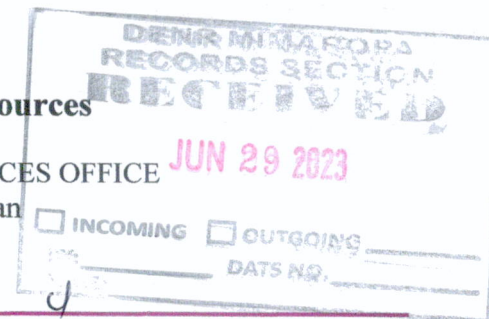




Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Bgy. Sta. Monica, Puerto Princesa City, Palawan
Telfax No. (048) 434 - 8791
Email Add: penropalawan@denr.gov.ph



June 2, 2023

MEMORANDUM

FOR : The Regional Executive Director
DENR MIMAROPA Region
1515 DENR By the Bay Building, Roxas Boulevard,
Barangay 668, Ermita, Manila

THRU : OIC, ARD for Technical Services

FROM : The Provincial Environment and Natural Resources Officer

SUBJECT : **MOTION FOR RECONSIDERATION RE: IN THE MATTER OF THE ADMINISTRATIVE ADJUDICATION PROCEEDINGS OF ONE (1) UNIT OF RED TOYOTA INNOVA WITH PLATE NUMBER DCQ-2327 LOADED WITH FORTY-FOUR (44) SACKS OF WOOD CHARCOAL, APPREHENDED IN BARANGAY TAGBUROS, PUERTO PRINCESA CITY**

Respectfully forwarded is the copy furnished in the Motion for Reconsideration from Merdedita Abella Ibañez, dated May 19, 2023, and received on June 1, 2023, relative to the above subject.

Per the copy furnished MR, Ms. Ibañez, through the Public Attorney's Office Counsel, is praying for the reversal of the decision dated May 10, 2023, of the Regional Executive Director Lormelyn E. Claudio by releasing the forty-four (44) sacks of wood charcoal, if practicable, and the red Toyota Innova with Plate Number DCQ-2327 owned and in favor of the movant Merdedita Abella Ibaez.

For information and further instruction.

Copy Furnished:
CENRO Puerto Princesa, Palawan
File/2023-005/MR for 44 Sacks Charcoal & 1 Toyota Innova/ACG MES Doc. Ref. No. 2023-5014

FELIZARDO B. CAYATOC
DENR-PALAWAN
PENRO-RECORDS
RELEASED
By *Ja*
Date: 15 JUN 2023 2023-1655

DENR PENRO
 PALAWAN RECORDS
 RECEIVED

BY: 
DATE: 06/01/2023 CN 23-5014

Regional Executive Director
LORMELYN E. CLAUDIO

MIMAROPA AAP CASE NO.
040

$$X \text{-----} X$$

COMES NOW MERCEDITA ABELLA IBANEZ, assisted by the Public Attorney's Office, through the undersigned Public Attorney, unto the Honorable Regional Executive Director, most respectfully moves for the RECONSIDERATION of Decision dated 10 May 2023, *copy of which was received by Mrs. Ibanez on 11 May 2023*, the body which reads, among others, that:

"WHEREFORE, foregoing premises considered, a ruling is hereby rendered:

1. The seized forty-four (44) sacks of wood charcoal and one (1) unit red Toyota Innova with Plate No. DCQ-2327, are CONFISCATED in favor of the government to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter; and

2. *The CENRO concerned is directed to file a criminal complaint against Mrs. Mercedita Abella Ibanez for violation of Sec. 77 of P.D. 705, as amended, and submit updates to this Office for record and monitoring purposes.*

SO ORDERED."

Herein movant humbly presents the relevant rules and jurisprudence together with the facts and circumstances of the instant case, which eluded notice by the Regional Executive Director of the Department of Environment and Natural Resources from which a just decision could have been rendered. The same undoubtedly would lead to an unquestionable decision, which unfortunately in this case, was rendered, with all due respect, in grave abuse of discretion as there are serious errors in the findings of facts and if not corrected, would cause grave and irreparable injury to herein movant.

1. Movant, **Mrs. Mercedita Abella Ibanez**, of legal age, married, resident of So. Sta. Fe, Brgy. Bacungan Puerto Princesa City, where she may be served with notices, pleadings, orders, and other processes.

2. Movant received Decision dated 10 May 2023 on 11 May 2023. Under the existing rules, movant has fifteen (15) days within which to file a Motion for Reconsideration or until 26 May 2023. Thus, herein filing is considered timely.

3. As stated in the assailed Decision, movant was apprehended in **Barangay Tagburos, Puerto Princesa City** for allegedly **transporting** forty-four (44) sacks of wood charcoal without any legal documents on November 26, 2021. Likewise, the vehicle used Toyota Innova with Plate No. DCQ-2327 was confiscated.

4. Immediately addressing the allegations, we invite the attention of the Regional Executive Director to the recent **DENR Administrative Order No. 2022-05 ("Rule and Regulations on Wood Charcoal")**, Sec. 6 which states, among others:

"SECTION 6. Transport of Raw Materials and/or Wood Charcoal. For holders of WCPP, an authenticated copy of the WCPP shall be sufficient and valid transport document to accompany the movement of the raw materials and/or wood charcoal outside municipalities/cities.

xxx

Provided finally, that any illegally-harvested raw materials for wood charcoal and/or wood charcoal (sacks) found during the transport without a valid permit or inconsistent with the issued permit shall be confiscated in favor of the Government consistent with the provisions of Section 77 and 78, Chapter IV of the PD 705, as amended."

5. Thus, even assuming for the sake of argument that movant indeed transported wood charcoal without any permit, it is clear from the above-cited rule that conversely, **a valid permit is only indispensable if the transportation from point of origin is outside the city/municipality of point of destination.**
6. Here, it is worthy to emphasize that movant resides in Brgy. Bacungan Puerto Princesa City and she was allegedly apprehended in Barangay Tagburos, Puerto Princesa City well within the territorial jurisdiction of the same city.
7. Based on available sources¹, Puerto Princesa City has sixty-six (66) barangays within its jurisdiction, two among which are Bacungan and Tagburos. Said city has no municipalities but only barangays.
8. Thus, we respectfully submit that movant should not have been apprehended in the first place for lack of permit to transport wood charcoal since the rules do not require for the same if transportation is done within the same city/municipality. Nullum crimen, nulla poena sine lege. (*There is no crime when there is no law punishing it.*)
9. Moreover, since the apprehension had no basis in law, it was also unlawful that personnel of Enforcement and Monitoring Section (EMS) of CENRO Puerto Princesa confiscated the conveyance of red

¹ <https://www.philAtlas.com/luzon/mimaropa/puerto-princesa.html> last accessed on 19 May 2023

Toyota Innova with Plate No. DCQ-2327. Nowhere in the above-cited Sec. 6 of DENR Administrative Order No. 2022-05 which provides for the confiscation of vehicles used in transportation. In fact, the proviso only mentioned of *“any illegally-harvested raw materials for wood charcoal and/or wood charcoal (sacks) found during transport xxx shall be confiscated in favor of the Government.”*

10. In the same vein, in conjunction with the above-cited Administrative Order, nowhere in P.D. 705, Secs. 77 and 78 which mentions the confiscation of vehicles.

11. Hence, the legal basis stated on the assailed Decision should fail since any inconsistent provisions of Department Order No. 97-32 has been effectively supplanted, repealed, and/or abandoned on the passage of a new DENR Administrative Order No. 2022-05.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed unto this Honorable Office that judgment be rendered **REVERSING** the Decision dated 10 May 2023 of Regional Executive Director Lormelyn E. Claudio by **RELEASING the forty-four (44) sacks of wood charcoal, if practicable, AND the red Toyota Innova with Plate No. DCQ-2327** owned and in favor of the movant.

Other reliefs, just and equitable, under the premises are likewise most respectfully prayed for.

City of Manila, May 19, 2023.

Department of Justice
Public Attorney's Office
Manila District
4th Flr. Godino Bldg, Arroceros St.
Ermita, Manila
Tel. No.: 4009755/ 5232030

By:


ATTY. DANICA STEPHANIE T. NOVILLA-BARCELONA

Public Attorney I

Roll of Attorneys No. 74648

IBP No. 310132/02-06-2023/Makati

MCLE Compliance No. VII-0028702 valid until April 14, 2025

paomanila.attynicanbarcelona@gmail.com

Copy furnished:

PENRO Palawan

CENRO Palawan

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