IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 290

Magistrate's Appeal No 9030 of 2023

Between

Dao Thi Boi

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law — Offences — Endangered species]
[Criminal Law — Elements of crime — *Mens rea*]
[Criminal Procedure and Sentencing — Sentencing — Appeals]

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Dao Thi Boi
v
Public Prosecutor

[2024] SGHC 290

General Division of the High Court — Magistrate's Appeal No 9030 of 2023
Sundaresh Menon CJ, Tay Yong Kwang JCA and Steven Chong JCA
11 July 2024

8 November 2024

Tay Yong Kwang JCA (delivering the grounds of decision of the court):

1 This was the appeal of Ms Dao Thi Boi (the "appellant") against her conviction by the District Court on one charge under s 4(1) read with s 20(1)(*a*) of the Endangered Species (Import and Export) Act (Cap 92A, 2008 Rev Ed) (the "**ESA**") and against her sentence of ten months' imprisonment. The District Court's decision is at *Public Prosecutor v Dao Thi Boi* [2023] SGDC 257 (the "Decision").

2 The charge against the appellant was as follows:

> You, [...] are charged that you, on the 5th day of March 2018, at about 5.00pm, at the Immigration Checkpoints Authority, Pasir Panjang Scanning Station, 21 Harbour Drive, Singapore, being the Director of M/s Song Hong Trading and Logistics Private Limited, which imported a 40-footer container (bearing registration number MRSU3383194) containing a scheduled species into Singapore, to wit, 1,787 pieces of elephant tusks (derived from Family Elephantidae), weighing a total of 3,480 kilograms, a species listed in the schedule of Endangered

> Species (Import & Export) Act, Chapter 92A, from Apapa, Nigeria, Africa, without a Permit issued by the Director-General of Agri-Food and Veterinary Services, which offence was committed with your consent, and you have thereby committed an offence punishable under Section 4(1) read with Section 20(1)(a) of the said Act.

3 One of the major issues raised in this appeal concerned the meaning of the term "import" in s 4(1) of the ESA. This term is defined in s 2 of the ESA in the following manner:

> "import" means to bring or cause to be brought into Singapore by land, sea or air any scheduled species other than any scheduled species in transit in Singapore;

4 We set out below the other provisions of the ESA relevant to the present appeal. Section 4 creates the offence in issue:

> 4(1) Any person who imports, exports, re-exports or introduces from the sea any scheduled species without a permit shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 for each such scheduled species (but not to exceed in the aggregate $500,000) or to imprisonment for a term not exceeding 2 years or to both.

5 Section 6(1) sets out a statutory defence to liability under s 4(1) of the ESA. Both the appellant and the Prosecution relied on s 6(1) of the ESA in support of their respective cases. Section 6(1) states:

> 6(1) Subject to subsection (2), in any proceedings for an offence under section 4 or 5, it is a defence for the person charged to prove –
>
> > (a) that the commission of the offence was due to the act or default of another person or to some other cause beyond the control of the person charged; and
> >
> > (b) that the person charged took all reasonable precautions and exercised all due diligence to avoid the

> commission of such an offence by the person charged or by any person under the control of the person charged.

6 Section 20 attributes liability for offences committed by a body corporate to its officers. It provides:

> 20(1) Where an offence under this Act committed by a body corporate is proved —
>
> > (a) to have been committed with the consent or connivance of an officer; or
> >
> > (b) to be attributable to any neglect on his part,
>
> the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

7 In view of the novel questions of law raised in the present appeal, we appointed Mr Choo Ian Ming ("Mr Choo") as Young Independent Counsel ("YIC") and invited him to address us on the following questions:

> Question 1: To establish an offence under the "import" limb of s 4(1) of the ESA, must the Prosecution prove that the offender knew of the nature of the thing being imported?
>
> Question 2: For the purpose of establishing liability under s 20(1)(a) of the ESA (*ie*, liability of an officer of a corporation in respect of an offence committed by the corporation), when can an officer of the corporation be said to have "consented" to effect the commission of the offence by the corporation?

8 After considering the parties' and the YIC's submissions, we dismissed the appeal against both conviction and sentence. We now give the reasons for our decision.

The factual background

The agreed statement of facts

The parties

9 The appellant is a female Singapore Permanent Resident who is now 42 years of age. She was 36 years old at the time of the alleged offence. At the material time, she was the owner and director of VNSG Trading Pte Ltd ("VNSG") and Song Hong Trading & Logistics Pte Ltd ("Song Hong").

Discovery and seizure of the elephant tusks

10 On 3 March 2018, at about 6.25 a.m., Immigration and Checkpoints Authority ("ICA") officer Lim Kian Seng ("Lee") was on duty as an Image Analyst at ICA Pasir Panjang Scanning Station ("PPSS") when a 40-foot container with number MRSU3383194 ("the Seized Container") was produced at PPSS for clearance. The Seized Container, which was loaded at Apapa, Nigeria, was covered by a Cargo Clearance Permit ("CCP") (Permit No. II8B994001C) and declared to contain 203 packages of groundnuts. In the CCP, the importer of the container was stated as "RELIANCE PRODUCTS PTE LTD O/B SONG HONG TRADING AND LOGISTICS PTE LTD 200400369K". Upon scanning the Seized Container, Lee found images akin to animal horns inside. The container was then detained for investigations.

11 Arrangements were made for the container to be unstuffed on 5 March 2018 at 10.30 a.m. by workers provided by Reliance Products. On 5 March 2018, at 10.30 a.m., Checkpoints Inspector Kartar Singh Sahota s/o Kulip Singh and Sgt Puaneswaran s/o Krisnan from the ICA conducted the unstuffing of the said container. During the course of the unstuffing, they discovered bags of suspected elephant tusks packed inside gunny sacks located among sacks of

groundnuts. The appellant was not present at the said unstuffing. Upon the discovery, the ICA officers notified the Agri-Food and Veterinary Authority ("AVA").

12 At about 5 p.m. on 5 March 2018, duty officers Gavan Leong ("Leong") and Kee Boon Hwei ("Kee") arrived at PPSS and observed the unstuffing of the container. After the unstuffing was completed, Leong and Kee counted a total of 61 bags containing 1787 pieces of suspected elephant tusks weighing 3,480 kg in total. They took 17 photographs of the seized exhibits. Seizure forms under the Endangered Species (Import & Export) Act 2006 for the suspected elephant tusks were first issued to Maung Shwe Tint (the Managing Director of Reliance Products) on 5 March 2018 at 8.30 p.m. and then to the appellant on 6 March 2018 at 4.05 p.m. (replacing the earlier seizure form).

13 On 11 June 2018, Zoology Specialist Saravanan Elangkovan assessed the seized elephant tusks and concluded that they were authentic and derived from the Family Elephantidae. An acknowledgement letter was issued by Wildlife Reserves Singapore dated 2 February 2020 confirming this.

Independent expert report

14 On 20 May 2019, independent expert Sim Kiang Lee Thomas ("Mr Sim") from the Singapore Logistics Association issued an expert report analysing four consignments involving the appellant, to review and analyse the shipment practices executed by the parties involved.

Statement recorded from the appellant

15 On 5 June 2018 at 10.45 a.m., a statement was recorded from the appellant under Section 10(3) of the Endangered Species (Import and Export)

Act (Cap. 92A, 2008 Rev. Ed.) by Investigation Officer Raghbir Singh. The making of the statement was done voluntarily by the appellant. This statement was referenced in the independent expert report.

The appellant's role and knowledge

16 It was undisputed that the appellant had been told by her Vietnamese client, known to her as "Su Thien", that the Seized Container contained groundnuts. Su Thien had sent the appellant (a) a photograph of the bill of lading, (b) an email containing the commercial invoice and (c) the packing list for the Seized Container, all of which stated its contents as groundnuts and listed Song Hong as the consignee or importer. The shipping instructions in the bill of lading were provided by the booking party located in Nigeria (the Decision at [11]). Mr Sim, the independent expert, confirmed that the indication "CY/CY" in the bill of lading indicated that the Seized Container was stuffed and sealed by the shipper at the port of origin. He also confirmed that the phrase "shipper's load, stow, weight and count" meant that the container was packed by the shipper and that it was the shipper's responsibility to load, count, tally the goods and to advise the carrier on the description and weight of the cargo loaded into the container (the Decision at [19]).

17 The Seized Container had been handled on a "freight collect" basis, meaning that the appellant was issued the import invoice for the Seized Container and that she made payment to the carrier. The appellant had also engaged Reliance to apply for the import permit, collect the container and transport it to the warehouse for stuffing and unstuffing (the Decision at [12]). As the contents of the Seized Container were to be exported to Vietnam, the appellant had also booked a container for shipment to Ho Chi Minh City (the Decision at [13]).

18 At the trial, the appellant testified that she had through either VNSG and Song Hong dealt with between 200 to 300 containers annually between 2015 2017 but only provided import and re-export services to Su Thien (the Decision at [47]). Su Thien had requested to indicate VNSG or Song Hong as the consignee because Singapore law required a local company to receive the import container (the Decision at [48]). While the appellant was initially concerned that Su Thien might be importing illegal goods, she claimed to have been reassured after Su Thien promised not to do anything dishonest (the Decision at [48]). Additionally, while she knew that Su Thien's purpose behind unstuffing the shipments and stuffing them into a different container was because he wanted the goods to appear to have originated from Singapore rather than Nigeria, she claimed that this was "regularly done in the industry" (the Decision at [50]).

19 The appellant also claimed that, because Su Thien did not have a licence to import food items into Vietnam, he would instruct her to change the description of the goods in the export bill of lading to reflect only goods which he purchased in Singapore and stuffed into the export container. The appellant claimed that she did not find this dishonest as she had declared correctly the imported and exported goods in Singapore and it was for Su Thien to take responsibility for any illegality arising in Vietnam from the misdescription in the export bill of lading (the Decision at [51]). The appellant also claimed to have understood that the AVA might have inspected the goods at any time and assumed that any goods which were successfully imported and re-exported must have passed inspection (the Decision at [52]).

20 After the Seized Container was seized on 3 March 2018, the appellant contacted Su Thien, requesting that he check with the shippers in Africa regarding the contents of the container and warning him that if he did not answer

her questions, she would stop working with him. Later, Su Thien informed the appellant that his customer, who was the real owner of the shipment, had disappeared (the Decision at [53]). Nevertheless, the appellant continued working with Su Thien after 3 March 2018 as he was appointed as the importing agent in Vietnam by another customer of hers (the Decision at [54]).

Proceedings in the District Court

Liability

The Prosecution's arguments

21 At the trial, the Prosecution's case was that the definition of "import" in s 4(1) of the ESA did not include any *mens rea* requirement. As long as the appellant could be shown to have been fully aware of Song Hong performing the act of importing the Seized Container, this would suffice to show that Song Hong had done so with the appellant's consent, within the meaning of s 20(1)(*a*) of the ESA. This being the case, it was not necessary to prove that the appellant or Song Hong knew that the Seized Container contained elephant tusks and it sufficed to show that Song Hong had factually caused the Seized Container and its contents to be brought into Singapore (the Decision at [61]).

22 The Prosecution also took the position that the appellant could not avail herself of the statutory defence provided in s 6(1) of the ESA as she had not taken all reasonable precautions or exercised all due diligence to avoid the commission of the offence by Song Hong (the Decision at [61]). The Prosecution pointed to numerous "red flags", such as Su Thien's instructions to "drastically change the description of goods on outgoing [bills of lading] from nuts … to primary plastics or PP (polypropylene) rope, without corresponding changes in the CCPs)" on at least five previous occasions. Additionally, on the

applicant's *own* testimony, she knew that Su Thien was committing some form of illegality, specifically the import of food products into Vietnam despite the lack of the requisite license and had no qualms assisting him in doing so. She also knew that the only reason why Su Thien wanted to import goods into Singapore and then have them re-exported to Vietnam was to conceal the fact that their true origin was Nigeria. Moreover, her claim to have believed that the shipments contained nuts was unbelievable given that she was also aware that Vietnam was a top cashew nut exporter and charged high import duties on such goods. These "numerous red flags" should have led any reasonable logistics services provider to question the nature and honesty of Su Thien's business. As it was both possible and commercially viable for her to have stopped working with Su Thien, she should have done so much earlier.

The appellant's arguments

23 The appellant's case was that neither she nor Song Hong could be said to have imported the elephant tusks into Singapore. Merely allowing oneself to be named a consignee cannot suffice to make one an importer. It would be inconsistent with the common practice of naming freight forwarders as consignees on bills of lading. Neither she nor Song Hong had any control over or contact with the shipper who packed the Seized Container and who was responsible for providing information as to its contents to the carrier. The appellant was not aware that there was anything aside from groundnuts in the Seized Container. She was also not in a position to check the contents (the Decision at [62]). For completeness, it should be noted that the appellant did not dispute seriously the issue of consent in connection with secondary liability under s 20(1)(*a*) of the ESA.

24 In the alternative, the appellant sought to rely on the statutory defence in s 6 of the ESA, pointing again to the fact that the stuffing of the elephant tusks occurred in Nigeria, far beyond her control and that there was no way she could have discovered their presence in the Seized Container until it arrived in Singapore and was in fact seized by the PSA. The appellant also submitted that that there was nothing to raise any suspicions on her part concerning the shipment. She had done all she could to comply with the requirements by instructing Reliance to apply for the requisite permits, knowing that the goods might be subject to inspection by the AVA (the Decision at [63]).

The decision in the District Court

25 At first instance, the District Judge (the "DJ") found that Song Hong had factually caused the elephant tusks to be brought into Singapore as it had played the necessary role of a locally registered consignee in order for the Seized Container to be brought into Singapore. It had also taken steps to arrange for the unstuffing and stuffing of the contents of the Seized Container for re-export (the Decision at [77]).

26 The DJ also held that guilty knowledge that there were elephant tusks in the container was not a requirement for liability under s 4(1) of the ESA. The DJ held that this interpretation was consistent with the plain meaning of s 4(1) as well as the definition of "import" in s 2 of the ESA. It would also accord with the statutory defence in s 6(1) of the ESA, which contemplated situations in which the offence under s 4(1) of the ESA might be "committed unintentionally or unknowingly by the person charged" (the Decision at [76]).

27 The DJ distinguished the case of *Burberry Ltd v Megastar Shipping Pte Ltd and another appeal* [2019] 1 SLR 536 ("*Megastar CA*") as that decision

was concerned with s 27 of the Trade Marks Act (Cap 332, 2005 Rev Ed) ("TMA") which imposed liability for the "use" of trade marks without consent. The DJ noted that s 4(1) of the ESA "directly criminalised the very act of importation of a scheduled species without a permit". Therefore, the need for knowledge to establish "use" of a trademark under the TMA did not necessarily indicate that knowledge was similarly required to make out a charge of importation of contraband under the ESA (the Decision at [76]). Accordingly, the DJ held that Song Hong did cause the tusks to be brought into Singapore. Not only was Song Hong named as the consignee, with the appellant's consent, it was also declared to be the importer in the CCP by its agent. Song Hong also took steps to arrange for the collection and transportation of the container out of the port as sufficed to make out liability under s 4(1) of the ESA read with s 20(1)(*a*) of the ESA (the Decision at [77]).

28 The DJ held that the appellant could not rely on the statutory defence in s 6(1) of the ESA although she had complied with the requirement as to notice under s 6(2) and satisfied s 6(1)(*a*) in that the commission of the offence was due to the act or default of another person. The appellant could not satisfy s 6(1)(*b*) as she had not taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence. The appellant continued dealing with Su Thien despite the numerous "red flags" mentioned earlier (the Decision at [83]–[87]). The DJ rejected the appellant's claims that she had instructed Reliance to check the packages in some of the previous shipments and that it was Reliance's practice to conduct random checks. These claims were contradicted by the evidence from one of Reliance's employees whose evidence was not challenged (the Decision at [85]). The DJ also held that checks conducted by the authorities could not be credited to the appellant as precautions

taken or as due diligence exercised by her (the Decision at [86]). Accordingly, the DJ found the appellant guilty under s 4(1) of the ESA and convicted her.

Sentence

The Prosecution's arguments

29 The Prosecution sought a sentence of between 12 and 18 months. The Prosecution relied on precedents under s 4(1) of the ESA in which offenders were sentenced to 15 months' and 17 months' imprisonment for importation of rhinoceros horn (the Decision at [96]). The present case involved a large quantity of elephant tusks with an estimated worth of USD2.5m (the Decision at [99], [110]).

30 The Prosecution argued that it was clear that the tusks were sourced illegally and smuggled out of Africa and that Singapore was used to mask the source of the goods. There was also evidence of deliberate concealment. Further, the appellant chose recklessly to turn a blind eye in her continued dealings with Su Thien.

The appellant's arguments

31 The appellant submitted that a fine would be appropriate. She emphasised again that she had no involvement with or control over the Seized Container from the point it was stuffed in Nigeria until the discovery of the elephant tusks in Singapore. She had been under the impression that it contained groundnuts. She attempted to distinguish the Prosecution's precedents on the basis that the offenders in those cases were directly involved in the smuggling of contraband while she was merely a freight forwarder (the Decision at [103]–[104]).

32 The appellant also highlighted that she did not stand to profit in any way from the smuggling of the elephant tusks, other than the usual fee of $500 that she would receive for her services and which she was not even paid in full for the Seized Container here (the Decision at [105]). Her average monthly income was $7,000 for the years of tax assessment 2017 to 2019.

33 The appellant also took issue with the Prosecution's stand that the tusks were from poached elephants. She submitted that the elephants in question could have died from natural causes or from accidents or could have been culled legally.

The decision of the District Court

34 The DJ held that the large quantity of tusks underscored the extensive harm caused to the vulnerable species. The tusks were derived from at least 500 elephants which were more endangered as a species as they were included in Appendix 1 of the Schedule to the ESA (the Decision at [118]). Although the appellant did not have actual knowledge that the shipment contained elephant tusks, she was aware at least that there was an illicit or nefarious element to the shipments that she was facilitating (the Decision at [116]).

35 This was a case which bore the "classic features of transnational organised wildlife smuggling, with bogus documentation and deliberate concealment of the elephant tusks within a purported shipment of nuts" (the Decision at 117]). On the other hand, unlike the couriers in precedent cases, the appellant did not have actual knowledge of the tusks and was not a member of any transnational wildlife smuggling enterprise.

36 In the light of these factors, including the mitigating factors involving the appellant's personal background and the fact that she had not set out to contravene the law deliberately, the DJ sentenced her to ten months' imprisonment. The DJ considered this sentence proportionate to the appellant's overall criminality and sufficient for deterrence.

Appellant's Case

37 The appellant's appeal was mounted on the following grounds:

(a) The DJ erred in finding that Song Hong was the importer of the elephant tusks and that the appellant consented to the commission of the offence;

(b) The DJ erred in finding that the appellant failed to satisfy the defence in s 6 of the ESA;

(c) The DJ erred in not giving weight to the appellant's defence that she had no control over what was stuffed into the container in Nigeria;

(d) The sentence of ten months' imprisonment was manifestly excessive.

38 First, the appellant repeated her arguments that *mens rea* was presumptively a necessary ingredient for liability under any offence-creating statutory provision and that there was no reason to depart from this position for s 4(1) of the ESA. She submitted that there was nothing in the express wording of ss 2 or 4 of the ESA to disapply this presumption nor was there any social or public safety concern which would weigh in favour of s 4 of the ESA being read as creating a strict liability offence. The term "import" in the context of the ESA must therefore imply some element of positive action and intentionality.

Otherwise, a purchaser or consignee might be held liable if contraband is slipped into a shipment without his knowledge.

39 Since Song Hong did not intend to bring the elephant tusks into Singapore or even knew that the tusks were in the Seized Container, it could not have brought or caused them to be brought into Singapore. Accordingly, it could not be considered as having imported them. The mere fact that Song Hong was a consignee could not make it an importer, as goods could be consigned to an entity without that entity having to do anything. Further, the evidence showed that the appellant had no involvement in stuffing the container in Nigeria, was unaware of its existence at the point it was stuffed and shipped and had no idea what was inside. The appellant only became aware that Song Hong was named a consignee after the Seized Container was already on its way to Singapore. The appellant was informed only that the Seized Container contained groundnuts and there was no evidence or legal presumption that the appellant knew of its actual contents. There was simply no way the appellant could have prevented the import of the elephant tusks.

40 The appellant relied on the case of *Louis Vuitton Malletier v Megastar Shipping Pte Ltd (PT Alvenindo Sukses Ekspress, third party) and other suits* [2017] SGHC 305 ("*Megastar HC*") for the proposition that it was not the party to whom goods are consigned that was the importer. Instead, it should be either the shipper or the party who makes the shipping arrangements, packs or loads the shipped containers onboard the inbound vessels.

41 The appellant also relied on the case of *The "Axel Maersk"* [1979-1980] SLR(R) 822 ("*The Axel Maersk*") for the proposition that only the shipper knows the contents of a container sealed and shipped under a Container Yard/Container Yard ("CY/CY") bill of lading and on *The "American*

Astronaut" [1979-1980] SLR(R) 243 ("*The American Astronaut*") for the proposition that the phrase "shipper load stowage and count" means that only the shipper knows and is responsible for the contents, weight and count of goods loaded into a container. These labels provided further support that, as a matter of law, the appellant could not be taken to have known of the actual contents of the Seized Container. She had no control over what went into it and therefore could not be said to have caused them to be brought into Singapore.

42 If the appeal against conviction failed, the appellant sought a reduction in the sentence of ten months' imprisonment imposed by the DJ.

Prosecution's Case

43 The Prosecution argued that the common law presumption of a requirement of *mens rea* was rebutted in respect of s 4(1) of the ESA. It observed that freight forwarders play an essential role in facilitating the movement of shipments from their country of origin to their destination and that it would be too easy for freight forwarders in Singapore to escape liability by relying on their lack of actual knowledge of the contents of the shipments being forwarded. This would be inconsistent with the legislative intent behind the ESA which was to comply with Singapore's treaty obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) ("CITES") by creating a system of effective control over the trade in endangered species. Given their facilitative role in the international trade system, freight forwarders are best placed to take preventive measures against facilitating illegal wildlife trade and to promote observance of s 4(1) of the ESA. It therefore made sense to read s 4(1) of the ESA as creating a strict liability offence as this would compel freight forwarders to take the necessary preventive measures by

ensuring that import and export documentation and the instructions they receive were in order and did not give rise to suspicion as to the goods being imported.

44 The Prosecution found further support for this position in s 6(1) of the ESA, which has been set out above, as well as s 107 of the Evidence Act 1893 (2020 Rev Ed) (the "EA"). Section 107 of the EA provides that:

> When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general exceptions in the Penal Code 1871, or within any special exception or proviso contained in any other part of the Penal Code 1871, or in any law defining the offence, is upon the person, and the court is to presume the absence of such circumstances.

45 The Prosecution argued that the overall effect of ss 4(1) and 6(1) of the ESA, read together with s 107 of the EA, was that the court must presume that an accused person has not taken all reasonable precautions or exercised due diligence to avoid the commission of the offence under s 4(1) of the ESA, unless the accused person proves otherwise. The Prosecution argued that such precautions or the taking of due diligence must necessarily entail taking steps to find out the nature of the imported goods and whether they comprised endangered species. Further, if an accused person knowingly imports an endangered species without a permit, this would almost inevitably preclude any possibility of reliance on s 6 of the ESA. It could not be the case that making out the offence under s 4(1) required the Prosecution to prove that the accused person knew the nature of the goods imported as this would render s 6(1) otiose and so be inconsistent with the statutory scheme of the ESA. Reading s 4(1) of the ESA as not requiring such knowledge would strike the appropriate balance between furthering the purpose of the ESA and mitigating any perceived harshness arising therefrom. It would not be overly onerous on freight

forwarders as long as they are vigilant in their dealings with relevant parties and the relevant documentation.

46 On the issue of "consent" under s 20(1) of the ESA, the Prosecution submitted that the appropriate test was that articulated in the case of *Public Prosecutor v Tan Seo Whatt Albert and another appeal* [2019] 5 SLR 654 ("*Albert Tan*") at [39], which reads as follows:

> …where "consent" is relied on to establish secondary liability, the offender must be shown to have known the material facts that constituted the offence by the limited liability partnership and to have agreed to its conduct of the business on the basis of those facts. Further, in my judgment, it is only right not to require the offender to know of the legal requirement that the limited liability partnership failed to comply with.

47 The Prosecution acknowledged that *Albert Tan* concerned offences under the Securities and Futures Act (Cap 289, 2006 Rev Ed) ("SFA") and that caution should be exercised when trying to decipher Parliamentary intent as regards *mens rea* for one statutory offence by reference to or by comparison with other statutes whose objectives and mischiefs differ to a considerable extent. However, the Prosecution submitted that adopting the *Albert Tan* test for consent was appropriate in the present case. First, much like *Albert Tan* itself, as well as the case of *Abdul Ghani bin Tahir v PP* [2017] 4 SLR 1153 ("*Abdul Ghani*") from which *Albert Tan* adopted its definition of consent, the present case involved a definition of *mens rea* elements, as opposed to the rather different exercise of deriving sentencing frameworks for different types of *mens rea*. Second, the present case, *Abdul Ghani* and *Albert Tan* all concerned primary offences consisting of the illegal transfer or movement of property and secondary liability for officers of a company which is found to have committed the primary offence. The provisions giving rise to secondary liability in *Albert Tan* and *Abdul Ghani* adopted the same three categories of *mens rea* in s 20(1)

of the ESA, namely consent, connivance and neglect. These terms have likewise been adopted by English law in imputing secondary liability to officers of a body corporate that is found to have committed a primary offence. In the context of the ESA, the *Albert Tan* test for consent would only require knowledge of the material facts pertaining to the act of bringing in a scheduled species or of causing a scheduled species to be brought into Singapore. Much like the primary offence under s 4(1), there was no need for knowledge of the nature of the thing being imported.

48 Applying these legal principles, the Prosecution argued that it was clear that Song Hong imported the elephant tusks. The appellant had given Su Thien "blanket approval" to use Song Hong's name as consignee of goods that he might ship to Singapore, engaged Reliance to receive the Seized Container and paid the carrier for the freight charges. The import bill of lading and CCP listed Song Hong as consignee and importer respectively. In short, the appellant, through Song Hong, had been engaged to do "everything necessary" to receive the shipment in Singapore. This being the case, it was correct to regard Song Hong as having brought the elephant tusks into Singapore or having caused them to be brought into Singapore, notwithstanding the lack of control over what had been stuffed into the container in Nigeria.

49 Similarly, in relation to the appellant's control over Song Hong in connection with s 20(1) of the ESA, the Prosecution argued that her lack of control over what was stuffed into the Seized Container and the fact that she (and Song Hong) were unaware of its contents were irrelevant. As Song Hong's director, owner and the only person in the company, the appellant must be taken to have agreed to Song Hong's act of importing the Seized Container into Singapore. All of Song Hong's acts were in reality her acts. The evidence also showed that the appellant was fully aware that Song Hong had been named as

consignee and importer and was notified of the Seized Container's arrival in Singapore. She paid the carrier and engaged Reliance to apply for the import permit, collect the Seized Container and transport it to the warehouse for unstuffing.

50 The Prosecution also argued that the appellant could not satisfy the requirements of the defence in s 6(1) of the ESA. Given her past dealings with Su Thien and the "red flags" that were present, it should have been clear that Su Thien was not honest. Nonetheless, the appellant continued providing him the import and re-export services. On the appellant's own account, she was helping Su Thien to perpetrate an illegal act by helping him re-export nuts into Vietnam even though she knew that he did not have a licence to do so, which she claimed was his explanation for why he had instructed her to change the description of the goods on the bills of lading. It therefore did not lie in the appellant's mouth to claim that she had no reason to believe that there was anything suspicious about Su Thien's shipments.

51 Further, the appellant was fully aware that it made little commercial sense to import nuts into Vietnam as it was a leading exporter of cashew nuts and charged high duties on their import. Her response to this was to speculate that there might still be demand for such goods and that she did not know about any such duties to be paid. Su Thien's explanation for why he wanted to mask the origin of the contents of the Seized Container was also objectively unconvincing and so was the appellant's explanation for why she did not find this questionable. In this light, Su Thien's assurances that he would "not do dishonest business" could not have been sufficient for the appellant to show that she had exercised due diligence or taken all reasonable precautions to avoid commission of the offence. Instead, the evidence showed that she was not even present on several occasions at the unstuffing of Su Thien's shipments and that

Reliance would only check a few sacks randomly by opening and looking inside them.

52 Finally, the Prosecution argued that the sentence of ten months' imprisonment imposed by the DJ was justified in view of the extent of harm caused to an especially vulnerable species, the presence of the "classic" features of transnational organised wildlife smuggling and the appellant's knowledge that her transactions with Su Thien were not fully above board. The Prosecution also pointed out that the DJ had already considered the appellant's lack of actual knowledge of the contents of the Seized Container, her personal background and the fact that she did not stand to profit and did not intend to break Singapore law. In comparison with precedent cases which did not bear aggravating features associated with transnational organised wildlife smuggling and in which sentences of three months' imprisonment were given, the sentence imposed on the appellant was less than half of the statutory maximum of two years' imprisonment,. Therefore, the sentence of ten months' imprisonment here was not manifestly excessive.

The Young Independent Counsel's submissions

53 As noted earlier, Mr Choo as YIC was invited to address us on two questions. On the first question, Mr Choo observed that the plain meaning of the terms "import", "export", "re-export" and "introduces from the sea" do not import an express mental element, whether knowledge or otherwise. These terms are defined in s 2 of the ESA with reference to physical acts and there is no requirement of knowledge of the nature of the thing being imported.

54 However, Mr Choo differed from the Prosecution on the significance of s 6(1), taking the view that it was a neutral factor rather than one in favour of

the Prosecution's position. Mr Choo considered that s 6(1) of the ESA applied only to a narrow set of situations in which someone or something outside the control of an accused person caused the commission of the offence. It was possible that even if s 4(1) of the ESA required the Prosecution to prove knowledge of the nature of the thing being imported, s 6(1) may nonetheless apply. The legislative material surrounding the introduction of s 6 of the ESA also did not shed light on its significance.

55 What was relevant, however, was the legislative purpose behind the ESA. It was to give effect to Singapore's treaty obligations under the CITES by regulating the trade and movement of certain endangered species through a permit system. The relevant articles of the CITES were as follows:

(a) Article I of CITES defines "trade" as including "import";

(b) Article II provides that trade in certain species must be subject to particularly strict regulation;

(c) Article III provides that the import of any specimen of certain species shall require the prior grant and presentation of an import permit;

(d) Article VIII(1) provides that states parties "shall take appropriate measures to enforce the provisions of [CITES] to prohibit trade in specimens in violation thereof", which shall include measures to *inter alia* "penalize trade in, or possession of, such specimens, or both".

56 Mr Choo also pointed out that the requirement of an export permit was one of the crucial features of the ESA, meant to fulfil the requirement for an export permit under Article III of CITES. However, as confirmed by subsequent instruments, resolutions and other material related to CITES, there was no

mandatory or uniform approach as to whether and what *mens rea* should or should not be a necessary component for criminal offences created pursuant to states parties' obligations under Article III. This was left to individual states to decide. States parties have taken a variety of positions on this question. In this light, Mr Choo submitted that an interpretation of s 4(1) of the ESA which did not require proof of knowledge was supported by the purpose of the ESA to strengthen deterrence against wildlife trade. This would also be consistent with the specific purpose of s 4(1) of the ESA which was to implement a regime for the purposes of prohibiting and/or penalising import and trade of scheduled species in violation of the CITES. This would prevent putative offenders from relying on their lack of knowledge to avoid liability and would encourage greater vigilance to prevent commission of prohibited acts. Any harshness caused by such an interpretation of s 4(1) would be mitigated by the defence in s 6 of the ESA.

57 Finally, Hong Kong's version of the ESA, which like our ESA does not provide for a mental element, has been interpreted as creating a strict liability offence. While there was no statutory defence akin to s 6 of the ESA, the Hong Kong courts have held that the common law defence of ignorance and due diligence would be available. Mr Choo suggested that this common law defence serves a similar function to s 6 of the ESA and observed that Singaporean legislators have referenced Hong Kong's laws in connection with the ESA, noting that Hong Kong has "similar arrangements". This supported a similar reading of s 4(1) of the ESA as not requiring proof of knowledge.

58 On the second question, Mr Choo was in broad agreement with the Prosecution that the test for consent in *Albert Tan* and *Abdul Ghani* was applicable to s 20(1) of the ESA, although both these cases were concerned with different statutes (namely the SFA and the Corruption, Drug Trafficking and

Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) ("CDSA") respectively). In this connection, Mr Choo observed that the words "consent or connivance" in s 20(1) of the ESA were materially similar to the secondary liability provisions of the SFA and the CDSA and that the purpose of all these provisions was ultimately the same, that of attributing liability for corporate acts to individuals.

59 In the specific context of the ESA, Mr Choo argued that proving consent did not require proof of knowledge of the nature of the thing being imported. Logically, it could not be the case that attribution of liability for corporate acts would result in a more onerous *mens rea* requirement than the primary offence. Moreover, precedent cases recognised that such a test for consent for the purposes of secondary liability was applicable even where the primary offence did not have a *mens rea* requirement. Accordingly, an officer of a body corporate consents to the primary offence of the body corporate when he has knowledge of the material facts of the primary offence and agreed to its conduct on the basis of such facts.

Issues before this court

60 From the foregoing, the following issues arose for our determination:

(a) Whether establishing an offence under the "import" limb of s 4(1) of the ESA requires the Prosecution to show that the accused person had knowledge of the nature of the thing being imported?

(b) Under s 20(1)(*a*) of the ESA, what is the relevant test for establishing that an officer of a corporation consented to the commission of the offence by the corporation?

(c) In view of the appropriate tests for importation and consent, did the appellant consent to Song Hong's importation of the elephant tusks within the meaning of s 4(1) of the ESA read together with s 20(1)(*a*) of the ESA?

(d) Whether the appellant could avail herself of the statutory defence in s 6 of the ESA?

(e) Was the sentence of ten months' imprisonment imposed by the DJ manifestly excessive?

Issue 1: proof of knowledge is not necessary to establish an offence under the "import" limb of s 4(1) of the ESA

61 It is well-established that the exercise of statutory interpretation proceeds in three stages (*Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 at [37]):

(a) First, ascertain the possible interpretations of the provision, having regard not just to the text of the provision but also to the context of that provision within the written law as a whole.

(b) Second, ascertain the legislative purpose or object of the statute.

(c) Third, compare the possible interpretations of the text against the purpose or object of the statute.

62 The plain wording of s 4 of the ESA does not require knowledge of the nature of the thing being imported. The definition of "import" in s 2 of the ESA refers only to a physical act. While fault is presumptively a necessary ingredient of any offence-creating statutory provision, this presumption is often displaced in situations where the statutory offence in question pertains to issues of social

concern or where strict liability will be effective in promoting the objects of the statute by encouraging greater vigilance to prevent the commission of the prohibited act and accused persons can do something to avoid committing the offence (*Tan Cheng Kwee v Public Prosecutor* [2002] 2 SLR(R) 122 ("*Tan Cheng Kwee*") at [14]; *Public Prosecutor v Jurong Country Club and another appeal* [2019] 5 SLR 554 at [99]).

63 The legislative material recognises that the prevention of transnational trafficking of endangered species requires the co-operation and compliance of all relevant stakeholders, including those involved in international trade. For example, in addressing a question about the role of public-private partnerships in combatting illegal wildlife trade and money laundering, then-Minister of State of National Development Mr Tan Kiat How ("MOS Tan") noted (*Singapore Parliamentary Debates, Official Report* (2 March 2022) vol 95 (Tan Kiat How, Minister of State for National Development) ("Breakdown of Cases Prosecuted for Illegal Import and Export of Endangered Species in the Past Five Years"):

> The Government has enhanced the collective understanding of illegal wildlife trade risks by sharing case studies and red-flag indicators with banks, traders, agents who apply for trade permits and this has helped them to better detect and report suspicious fund flows linked to illegal wildlife trade.

64 Similarly, in the Second Reading of the Endangered Species (Import and Export) (Amendment) Bill, MOS Tan observed (*Singapore Parliamentary Debates, Official Report* (4 July 2022) vol 95 (Tan Kiat How, Senior Minister of State for National Development) ("Second Reading of Endangered Species (Import and Export) (Amendment) Bill"):

> For the large majority of the industry, who have been responsibly following the requirements in the trade of CITES species, the amendments will have minimal impact on the

> existing processes or business operations. And, we thank you for your cooperation and for doing your part to safeguard our earth's natural heritage and environment.

65 While the appellant argued that there was no concern as to public safety arising from commission of the offence under s 4(1) of the ESA which would displace the presumption of *mens rea*, it is clear that *Tan Cheng Kwee* was simply identifying cases of public safety as an especially obvious category of cases giving rise to such concern. Contrary to the appellant's claim that there was no suggestion that this case gave rise to social concern, MOS Tan stated quite clearly (*Singapore Parliamentary Debates, Official Report* (4 July 2022) vol 95 (Tan Kiat How, Senior Minister of State for National Development) ("Second Reading of Endangered Species (Import and Export) (Amendment) Bill"):

> Illegal wildlife trade threatens the survival of endangered species and harms habitats and ecosystems around the world. Singapore is committed to the global fight against illegal wildlife trade. As an international trading hub, we take this issue very seriously.

66 MOS Tan went on to cite a then-recent seizure of ivory from more than 300 African elephants as a "record haul" and an example of successful collaboration with international counterparts. Similarly, former Member of Parliament Mr Leon Perera also emphasised the significant impact which illegal wildlife trade had in causing biodiversity loss and extinction and the consequent threat to the well-being of humanity (*Singapore Parliamentary Debates, Official Report* (4 July 2022) vol 95 (Leon Perera, Member of Parliament for Aljunied) ("Second Reading of Endangered Species (Import and Export) (Amendment) Bill").

67 It is clear that illegal wildlife trade and its consequences are issues of universal concern. This would warrant a departure from the presumption of *mens rea* for the offence in s 4(1) of the ESA.

68 In *Public Prosecutor v Koh Peng Kiat* [2016] 1 SLR 753 ("*Koh Peng Kiat*"), the Court of Appeal was concerned with the offence of arranging to supply counterfeit health products under s 16(1)(*b*) of the Health Products Act (Cap 112D, 2008 Rev Ed) ("HPA"), which provided that "[n]o person shall supply, or procure or arrange for the supply of, any health product which is a counterfeit health product". The question of which party bore the burden of proving or disproving that the accused knew that the health product in question was counterfeit arose. Like the defence in s 6 of the ESA, s 16(3) of the HPA provided a statutory defence if the accused could prove that he did not know, had no reason to believe and could not with reasonable diligence have ascertained, that the health product in question was in contravention of s 16(1) and that he had taken all precautions and exercised all such due diligence as could reasonably have been expected of him in the circumstances to ensure that the health product did not contravene s 16(1). The Court of Appeal held that the existence of s 16(3) of the HPA made it clear that Parliament intended not merely to deter the accused from engaging in the prohibited conduct but also to compel him to take sufficient care to avoid the occurrence of the elements of the offence. The Court also took the view that to require the Prosecution to establish knowledge that the health product was counterfeit would render the defence in s 16(3) otiose, as well as fly in the face of the overt purpose of the statute (*Koh Peng Kiat* at [60]).

69 The same could be said of ss 4(1) and 6(1) of the ESA. If knowledge was an essential element of the offence, then as long as the accused was not proved to have actually known that the goods which he physically brought or

caused to be brought into Singapore were protected species, there would be no offence, regardless of whether sufficient due diligence was done or care was taken by the accused. Such a reading of s 4(1) would, for all practical purposes, render s 6(1) otiose and make it too easy to evade liability by denying knowledge (see *Koh Peng Kiat* at [65]).

70 Similarly, as in *Koh Peng Kiat*, we hold the view that s 6(1) of the ESA supports the inference that Parliament intended not only to deter people from engaging in the prohibited conduct but also to compel them to "take sufficient care to avoid the occurrence of the external elements of the offence" (see *Koh Peng Kiat* at [60]). As with traders in health products, the ESA targets those who are in the supply chain and requires them to have appropriate checks and to deal with reputable suppliers. The appellant's role in facilitating the container's warehousing, unstuffing, restuffing and re-export demonstrated that she played an important role in this chain and that she had ample opportunity to prevent the commission of the offence.

71 The defence in s 6 of the ESA prevents potential harshness or unfairness which might result from the offence in s 4 being one of strict liability. It exonerates an accused person if he could prove that someone or something else was responsible for the physical importation of the CITES-prohibited species and that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence. A reading of s 4(1) of the ESA as not requiring knowledge would therefore not result in absurd or unfair consequences. A freight forwarder like Song Hong, which was paid to facilitate the transshipment of cargo from one place to another and which procured the necessary import and export permits while turning a blind eye consistently to the many suspicious circumstances present would be convicted correctly under this reading of s 4 of the ESA.

72 The appellant relied on *Megastar HC* for the proposition that "if anyone was the importer, it was either the shippers or the Third Party" rather than the freight forwarder (at [174]) in support of her proposed reading of s 4(1) of the ESA. However, the Court of Appeal in *Megastar CA* disagreed with this, holding on appeal that "import" simply means to "bring the goods or cause the goods to be brought into Singapore" (at [55]). While it upheld the High Court's conclusion that the respondent carrier was not liable for trademark infringement, this was because there was no evidence that the respondent "knew or had reason to believe that there were signs on the goods" being imported and therefore could not be said to have used the sign in question within the meaning of s 27 of the TMA (*Megastar CA* at [69]). As the DJ observed in this case, there is no requirement of "use" in s 4(1) of the ESA in addition to "import" (the Decision at [76]).

73 Accordingly, for all the reasons discussed above, we held that to establish an offence under the "import" limb of s 4(1) of the ESA, the Prosecution did not have to prove that the accused person had knowledge of the nature of the thing that was imported. The act of importation under that section is completed when a shipment enters Singapore physically.

Issue 2: the relevant test for establishing consent under s 20(1)(*a*) of the ESA

74 We agreed with the Prosecution and Mr Choo that the relevant test for consent under s 20(1)(*a*) of the ESA (now s 20(2)(*b*)(i) of the Endangered Species (Import and Export) Act 2006 (2020 Rev Ed)) was articulated in *Albert Tan* at [39]. The test is whether the offender can be shown to have known the material facts that constituted the offence by the body corporate in which he is an officer and to have agreed to its conduct of the business on the basis of those

facts. While *Albert Tan* and *Abdul Ghani* were concerned with criminal liability under the SFA and CDSA respectively, the specific provisions in issue adopt materially similar language of consent, connivance and neglect and were intended to attribute liability for primary offences committed by a body corporate to its officers (see *Albert Tan* at [34], *Abdul Ghani* at [97]–[98]). This is essentially the same purpose as s 20 of the ESA, which provides "for the liability of officers or members where an offence is committed by a body corporate or an unincorporated association" (Explanatory Statement to the Endangered Species (Import and Export) Bill (Bill No. 43/2005). On the facts of this case, it would be absurd if the person behind a solely owned, one-person corporation is able to avoid liability simply because of the corporate veil.

75 We also agreed with Mr Choo that the test for consent under s 20(1) of the ESA could not be read in such a way that had the overall effect of creating a *mens rea* requirement for the primary offence in s 4(1) of the ESA. Since we hold that s 4(1) of the ESA does not require proof of knowledge, it cannot be right that the Prosecution does not have to prove that the appellant knew of the contents of the Seized Container if she was acting in her own name but has to prove such knowledge when she was acting in the name of Song Hong. Accordingly, where an offence does not include knowledge or *mens rea* as a requirement, the Prosecution needs to prove only that the secondary offender under s 20(1) of the ESA has knowledge of the act which later turns out to constitute the offence.

Issue 3: the appellant had consented to Song Hong's importation of the elephant tusks

76 It was clear that Song Hong played a key role in the bringing of the container into Singapore. The appellant's testimony was that Su Thien had

requested permission to indicate Song Hong as consignee and she eventually agreed despite her initial discomfort and worry that Su Thien might import illegal goods into Singapore (the Decision at [48]). Not only did the appellant give her consent for Song Hong to be named as consignee, she also took active steps to facilitate the import of the Seized Container. These included the acts of liaising with Reliance to obtain the import permit for the Seized Container, arranging for its collection and paying the freight charges to the carrier (the Decision at [12]). She also admitted that she made full payment for the invoices relating to the Seized Container issued by Reliance to Su Thien's Vietnamese company (the Decision at [55]).

77 It was equally clear that the appellant had consented to Song Hong's importation of the container, pursuant to the test for consent discussed earlier. The appellant admitted that she consented to Song Hong being named as consignee. This case did not involve a large company with a complex management structure. It was a one-person operation. Whatever Song Hong knew, it was the appellant knowledge, whatever Song Hong did, it was done by the appellant. They were effectively one entity.

Issue 4: the appellant could not rely on s 6 of the ESA

78 On the evidence, the appellant did not take all reasonable precautions or exercised all due diligence to avoid the commission of the offence under s 4(1) of the ESA by herself or any person under her control. Clearly, she could not rely on the defence in s 6(1) of the ESA on the facts of this case. The said defence imposes upon persons in the appellant's position a positive duty to take all reasonable precautions or to exercise due diligence to avoid the commission of the offence. What such a duty entails in any given situation is necessarily highly context-dependent.

79 We agreed with the Prosecution that the appellant should have been especially cautious and should have made an extra effort to check the contents of those shipments of which she handled since she had actual knowledge that Su Thien's shipments were not entirely above board legally. He had given instructions to misrepresent their contents and to conceal their origin. Vietnam was a producer and an exporter of nuts, which ought to have raised questions why Su Thien was going through so much trouble to import nuts into Vietnam. All the surrounding facts discussed earlier should have led a reasonable person in the appellant's position to doubt Su Thien's explanation for wanting the contents in the outgoing bill of lading changed.

80 The appellant allowed Song Hong to be named as the consignee and importer in the CCP and other relevant documents, engaged Reliance to receive the Seized Container, paid for the freight charges and took no interest in checking what was being unstuffed and re-stuffed into the outgoing containers. This was despite her awareness of past discrepancies between the descriptions of cargo in the incoming and outgoing bills of lading. Her behaviour showed that she was completely indifferent to what was happening as long as Song Hong was paid for its role. If a person in the position of the appellant in the situation here could invoke the defence in s 6 of the ESA, this would surely defeat the purpose of the legal requirement to have a local company named as a consignee for an imported container.

Issue 5: the sentence imposed by the DJ was not manifestly excessive

81 Appellate intervention in sentencing is justified only where (*ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874 at [17]):

(a) the trial judge erred with respect to the proper factual basis for sentencing;

(b) the trial judge failed to appreciate the materials placed before him;

(c) the sentence was wrong in principle; or

(d) the sentence was manifestly excessive or manifestly inadequate, as the case may be.

82 The appellant's appeal against sentence relied only on the fourth of these grounds, that the sentence was manifestly excessive. We agreed with the DJ that the relevant offence-specific factors for an offence under the ESA, as derived from *Public Prosecutor v Kong Hoo (Pte) Ltd and another appeal* [2017] 4 SLR 1291 ("*Kong Hoo*") at [42]–[44], may be summarised as follows (the Decision at [115]):

(a) The quantity and commercial value of the scheduled species imported;

(b) Whether the breach was deliberate and whether there was some nefarious motive underlying the breach, or whether the breach was merely a regulatory oversight;

(c) Whether the case involved wildlife smuggling;

(d) Whether there was deliberate concealment;

(e) Whether there was evidence of transnational syndication;

(f) Whether there was evidence of cruelty to living animals;

(g) The potential financial gains for the offender.

83 We also agreed with the DJ that the main aggravating factors in the present case were the vast quantity of the elephant tusks found in the Seized Container, the cruelty to the animals which their procurement would invariably have entailed, the vulnerability of the animals in view of their categorisation as a CITES Appendix I species and the appellant's utter indifference to the numerous red flags present in her dealings with Su Thien. These factors, particularly the classification of the animals concerned as CITES Appendix I species, warranted a significantly higher sentence than the three months' imprisonment imposed in *Kong Hoo* in connection with the importation of Madagascan Rosewood and the five months' imprisonment imposed in *Public Prosecutor v Sustrisno Alkaf* [2006] SGDC 182 ("*Sustrisno Alkaf*") for transiting in Singapore with 2,520 South Asian box turtles, both of which were CITES Appendix II species.

84 While we accepted that the appellant did not have actual knowledge that such a large quantity of elephant tusks was present in the Seized Container, her indifference and failure to take any steps to avoid the commission of the offence led to the facilitation of the offence and she therefore has to bear the consequences of the illegal import. In this light, the sentence of ten months' imprisonment imposed by the DJ could not be said to be manifestly excessive.

Conclusion

85 For the reasons set out above, we dismissed the appellant's appeal against conviction and sentence. The appellant requested a deferment of commencement of her imprisonment. The Prosecution did not object to this request. We directed her to surrender herself on 23 July 2024 to commence serving her sentence.

86 We record our appreciation for the assistance rendered by Mr Choo as YIC in this appeal.

Sundaresh Menon
Chief Justice

Tay Yong Kwang
Justice of the Court of Appeal

Steven Chong
Justice of the Court of Appeal

Wee Pan Lee (Wee, Tay & Lim LLP) for the appellant;
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