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PROCTER & GAMBLE PHILIPPINE
MANUFACTURING CORPORATION,
Petitioner,

versus

THE COMMISSIONER OF
CUSTOMS,
Respondent.

CTA CASE NO. 1651

July 20, 1967

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DECISION

From the decision of the Commissioner of Customs dated April 22, 1965, affirming that of the Acting Collector of Customs of the Port of Manila dismissing Manila Protest Case No. 837 (Customs Case No. 746) petitioner has appealed.

The parties submitted the case for decision on the following "Stipulation of Facts":

> 1. Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office therein located at Sarmiento Building, Ayala Avenue, Makati, Rizal; respondent is the duly qualified and acting Commissioner of Customs and holds office at the Bureau of Customs, Port Area, Manila.
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> 2. On June 1, 1964, petitioner exported from Manila to Long Beach, California, U.S.A., on board the S/S "Korean Bear", 1,500 bags of copra cake covered by Bill of Lading No. ST-2, dated June 1, 1964, and declared in Entry No. 29, Series of 1964.

3. The copra cake was loaded into privately-owned lighters, which were moored alongside petitioner's private wharf situated at Estero Vitas, Tondo, Manila, which wharf adjoins its factory and warehouse, and brought and unloaded from said lighters into the S/S "Korean Bear", while it was near the breakwater in the Manila Bay. No Government wharves or facilities were used or availed of in loading the copra cake from petitioner's warehouse to S/S "Korean Bear".

4. The Appraisers' Division of the Bureau of Customs levied and collected on the said shipment the amount of ₱137.00 as wharfage fees, which was paid by petitioner as evidenced by Official Receipt No. 228009, dated May 28, 1964, and voucher No. 94606, dated May 26, 1964.

5. On June 17, 1964, petitioner filed a written protest, docketed as Manila Protest No. 837, with the Collector of Customs of Manila against the assessment and collection of wharfage fees on said shipment, based on petitioner's argument that, inasmuch as no Government wharves or facilities were used in loading the copra cake directly from the lighters to the exporting vessel, the shipment was not subject to the payment of wharfage fees;

6. On December 19, 1964, petitioner received the decision of the Collector of Customs of Manila denying its protest dated November 12, 1964, which decision was appealed by petitioner to respondent in accordance with law.

7. On May 17, 1965, petitioner received the decision dated April 22, 1965 of respondent in Customs Case No. 746 affirming the decision of the Collector of Customs of Manila. (Exhibit A, pp. 15-16, CTA records.)

The only issue raised is whether or not petitioner is liable for the payment of ₱137.00 as wharfage fees in connection with the loading of copra cake on board a vessel for export without the use of government wharves or facilities.

Petitioner contends that, inasmuch as no government wharf or facility was used in loading the copra cake on the S/S "Korean Bear", no wharfage fees can be legally collected. In support of his contention, the cases of the Philippine Sugar Central Agency v. Collector of Customs, 51 Phil., 151 and the Commissioner of Customs v. Superior Gas and Equipment Co. et al., G. R. No. L-14115, May 25, 1960, have been cited.

Respondent holds the contrary view. He contends that wharfage dues are imposable regardless of the ownership of the wharf and/or facilities used in loading the exported merchandise.

The legality of the imposition of wharfage dues on goods imported into or exported from the Philippines, except those specifically mentioned in the law, without the use of government wharves or facilities is now a settled matter (See Victorias Milling Co., Inc. v. Auditor General, G.R. No. L-17414, November 30, 1962, and Procter & Gamble Phil. Mfg. Corp. v. Comm. of Customs, G. R.

No. L-22819, April 27, 1967).

It appearing that the exported copra cake in question is not exempt from wharfage dues under Section 2801 of the Tariff and Customs Code, it follows that the collection of said dues from petitioner is legal.

WHEREFORE, finding no error in the decision appealed from, the same is hereby affirmed with costs against petitioner.

SO ORDERED.

Quezon City, July 20, 1967.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge