REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PHILIPPINE PRODUCERS' COOPERA-
TIVE MARKETING ASS'N., INC.
(PHILPROCOM),
Petitioner,

- versus -

C.T.A.
CASE NO. 948

HON. COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - - - - - - - x

R E S O L U T I O N

Petitioner seeks the review of respondent's decision dismissing its appeal from the decision of the Collector of Customs of Iloilo on the ground that the appeal was filed beyond the 15-day period provided for by law. The instant petition for review has raised only the issue of whether the appeal to respondent Commissioner was seasonably filed.

Petitioner Philippine Producers' Cooperative Marketing Association, Inc., a corporation duly organized under the laws of the Philippines with principal office at Bacolod City, imported fertilizers in various shipments, which were discharged from vessels at the middle of Guimaras Strait into lighters towed on the Iloilo River and docked alongside the marginal wharf where they remained under customs' custody until examined by the customs authorities. After examination, the lighters were towed to the province of Negros Occidental and unloaded on private wharves (Partial Stipulation of Facts, p. 24, CTA rec.). Wharfage fees were collected and paid under protest.

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In a decision dated August 29, 1958, which was received by petitioner on September 2, 1958, the Collector of Customs of Iloilo denied petitioner's protests and sustained the validity of the collection of wharfage fees on the importations in question.

On September 11, 1958, petitioner, through its counsel, sent by registered mail and deposited at Bacolod City Post Office (Exh. A-1, p. 25, CTA rec.) a motion for reconsideration of the Collector's decision (Exh. A, ibid.), which motion was actually received by the latter on September 15, 1958 (Annex A, Petition for Review; p. 30 Customs rec.). In a decision of June 2, 1959, received by petitioner on June 5, 1959, the Collector denied the motion (Exh. B, p. 30, CTA rec.).

On June 6, 1959, petitioner, thru counsel, sent to the Collector of Customs by registered mail and deposited at the Bacolod Post Office its notice to appeal to the Commissioner of Customs (Exhs. B & B-1, p. 30, CTA rec.), which notice of appeal was actually received by the latter on June 10, 1959. (Annex A, Petition for Review; p. 37 Customs rec.)

Believing the appeal to be in order, the Acting Collector of Customs forwarded the case to the Commissioner of Customs, who in a decision of August 18, 1960, denied the appeal on the ground that it was filed beyond the 15-day period.

The only issue raised for our consideration is whether or not petitioner's appeal from the decision of the Collector of Customs of Iloilo to the Commissioner of Customs was made within the statutory period of fifteen days.

Petitioner contends the affirmative, arguing that the notice of appeal was filed within the fifteen-day period as the date of mailing should be deemed as the date of filing of the motion for reconsideration and the notice of appeal. Respondent Commissioner of Customs maintains the contrary view, alleging that the date of actual receipt should be considered as the date of filing.

Section 2313 of the Tariff and Customs Code of the Philippines, which was already in force at the time the disputed appeal arose, provides:

> "SEC. 2313. Review by Commissioner.- The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the Collector of his action or decision, give written notice to the Collector of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to the decision."

In pursuance of Section 608 authorizing the Commissioner to make, subject to the approval of the department head, rules and regulations necessary to enforce the provisions of the Tariff and Customs Code, the former promulgated Customs Administrative Order No. 226, the pertinent provision of which reads:

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> "Par. VII. x x x Such notice of appeal must be filed in triplicate within fifteen (15) days, including Sundays and legal holidays, from receipt by the aggrieved party or his authorized representative of written notification of the action or decision sought to be reviewed. x x x."

It is to be noted that neither the law nor the implementing administrative order requires that the written notice to the Collector be effected in person. This being so, the giving of the written notice may be done by any of the means employed for the purpose of delivering correspondence to the addressee, one of them being the mails (<u>see</u> Yangco vs. Ocampo, 57 Phil. 1). If, as held in Caltex (Philippines) Inc. v. Katipunan Labor Union, G. R. No. L-9496, January 31, 1956, 52 O.G. 6209, 6210, "It is the practice before the courts of justice to consider the mails as an agent of the government - so that the date of mailing is always considered the date of filing any petition, motion or paper", we see no reason why the same considerations should not be accorded by administrative officials and bodies while in the exercise of their quasi-judicial functions. Consequently, we hold that since the Collector of Customs for the port of Iloilo received the motion for reconsideration and the notice of appeal, their dates of mailing are the dates of their filing.

It appearing that from September 2, 1958 when the Collector's decision was received by petitioner to the mailing of the motion for reconsideration nine (9) days elapsed, and one (1) day passed between the receipt by petitioner of the Collector's denial of the motion for reconsideration and the filing with the same official of the notice of appeal (to the Commissioner of Customs), it is obvious that the appeal was filed well within the period provided for by Section 2313 of the Tariff and Customs Code, as implemented by par. VII of Customs Administrative Order No. 226.

While we find that petitioner's appeal to respondent was seasonably filed, we cannot, however, proceed to decide the case on the merits despite the parties' stipulation of facts for the reason that the question regarding the validity of the collection of wharfage fees was not disposed of in the appealed decision, and the instant appeal is limited only to the issue of whether the appeal to respondent was timely filed. Consequently, let the records of the case be remanded to respondent Commissioner of Customs for further proceedings. No costs.

SO ORDERED.

Manila, October 13, 1961.

MARIANO NABLE
Presiding Judge

We concur:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge

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