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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ALTO SALES CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 2058

THE HONORABLE COMMISSIONER
OF CUSTOMS,
Respondent.

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12/15/74

D E C I S I O N

Petitioner Alto Sales Corporation has appealed from the decision of respondent Commissioner of Customs (dated April 10, 1968) decreeing the forfeiture of its importation of 75,600 kilos of foreign Virginia leaf tobacco for alleged violation of Section 2530(f) of the Tariff and Customs Code, in relation to Republic Act No. 4155.

As may be gathered from the pleadings, customs records, and memoranda of the opposing parties on which this case has been submitted for decision, the pertinent facts are as follows:

On February 7, 1967, a shipment of foreign Virginia leaf tobacco weighing 75,600 kilos (126 hogsheads of unmanufactured leaf tobacco and 42 hogsheads of Burley leaf tobacco), imported by petitioner Alto Sales Corporation, arrived at the Port of Manila on board the SS "Toreador". For alleged lack of authority or license to import said shipment from the Philippine Virginia Tobacco Administration (PVTA) pursuant to Republic Act No. 4155, the Bureau of Customs, on July 17, 1967, issued a warrant of seizure and detention of said merchandise and, subsequently, on July 26, 1967, instituted forfeiture proceedings thereof for violation of Section 2530(f) of the Tariff and Customs Code, in relation to Republic Act No. 4155.[1]

On February 7, 1968, after proper hearing, the Collector of Customs, Port of Manila, rendered a decision decreeing the forfeiture of the above shipment under Section 2530(f) of the Tariff and Customs Code on the ground that the same was imported contrary to law.[2]

On February 16, 1968, petitioner filed a motion for reconsideration of the Collector's decision[3] but said motion was denied by the latter in his order of February 20, 1968.[4]

On February 27, 1968, petitioner appealed to the Commissioner of Customs[5] who, on April 10, 1968, rendered a decision affirming the decision of the Collector.[6]

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1 Annex "C", Petition For Review, p. 15, CTA rec.; p. 199, Customs rec., pp. 1-2, petitioner's memo;

2 Par. 15, Petition, p. 4, CTA rec., p. 4, Petitioner's Memo.;

3 P. 186, Customs rec.;

4 P. 189, Customs rec., p. 5, Petitioner's Memo.;

5 P. 194, Customs rec., p. 5, Petitioner's Memo.;

6 Pp. 195-199, Customs rec., Annex "C", Petition, pp. 15-19, CTA rec.;

On May 13, 1968, petitioner received a copy of the Commissioner's decision[7] and, on June 10, 1968, it filed a motion for reconsideration.[8]

On August 7, 1968, said motion was denied by the Commissioner[9] and a copy of his order of denial was sent to petitioner sometime in November, 1969.[10]

On December 18, 1969, petitioner, through counsel, received the order of denial of its motion for reconsideration.[11] Hence, on December 22, 1969, it filed the instant appeal.[12]

In his answer, respondent averred that the forfeiture of the subject importation is legal and, as an affirmative defense, assailed the jurisdiction of this Court to entertain the present appeal.

The issues involved in this case are as follows:

> (1) Whether or not this Court has jurisdiction to entertain the instant appeal; and
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> (2) Whether or not the forfeiture of the subject importation under Section 2530(f) of the Tariff and Customs Code, in relation to Republic Act No. 4155 is valid and justified.

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7 Par. 16, Petition, p. 4, CTA rec.; p. 202 Customs rec.;

8 P. 5, Petitioner's Memo;

9 P. 204, Customs rec.; p. 5, Petitioner's Memo.;

10 P. 206, Customs rec.;

11 Par. 18, Petition, pp. 5-6, CTA rec.;

12 P. 1, Petition, p. 1, CTA rec.

The jurisdictional question posed is prejudicial to the issue on the merits of this case. Once it is established that this Court has no jurisdiction over the subject matter of petitioner's appeal, it has no alternative but to dismiss the same without passing on the merits thereof because jurisdiction is the power and authority of the court to hear, try and decide a case (Herrera v. Barreto, 25 Phil. 245; U.S. v. Limsiangco, 41 Phil. 94.)

> Jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law,[1] not by consent of the parties.[2] It can be challenged at any stage of the proceedings and for lack of it, a court can dismiss a case <u>ex moro motu</u>.[3]
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> To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the ability of its entire proceedings. x x x. (Commissioner of Internal Revenue vs. Villa, G.R. No. L-23988, Jan. 2, 1968; 22 SCRA 3.)

In the case at bar, the lack of jurisdiction over the subject matter is evident from the facts. Petitioner received the decision of the Commissioner of Customs on <u>May 13, 1968</u> and after the lapse of twenty-eight (28) days, or on <u>June 10, 1968</u>, it

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1 21 Corpus Juris Secundum, 127-128.

2 Molina v. De la Riva, 6 Phil. 12; Fuentebella v. Negros Coal Co., 50 Phil. 69; Vega v. San Carlos Milling Co., 51 Phil. 908.

3 U.S. v. De la Santa, 9 Phil. 22; Vda de Hijos de Pedro Roxas v. Rafferty, 37 Phil. 957.

filed a motion for reconsideration. Said motion was denied by the Commissioner in his order of August 7, 1968 and a copy thereof was received by petitioner's counsel on December 18, 1969. After the lapse of four (4) days or on December 22, 1969, petitioner filed its appeal to this Court. All in all, the total number of days consumed by petitioner in perfecting its appeal to this Court was thirty-two (32) days.

Under the law, a party adversely affected by the decision or ruling of the Commissioner of Customs has only thirty (30) days after receipt thereof within which to appeal to this Court. This is clear from the provisions of Section 11 of Republic Act No. 1125 which reads:

> Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, the Collector of Customs[1] or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

Such statutory requirement is jurisdictional and non-extendible, and non-compliance therewith bars the appeal. (See Acting Comm. of Int. Rev. v. Joseph, et al., L-14034, August 30, 1962, 5 SCRA

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1 The words Collector of Customs should be read Commissioner of Customs. (Rufino & Sons, Inc. v. Court of Tax Appeals, G.R. No. L-9274, Feb. 1, 1957, 53 O.G. 3065.

895; Republic v. Lim Tian Teng Sons and Co., Inc., L-21731, March 31, 1966, 16 SCRA 584; Fil. Investment and Finance Corp. v. Comm. of Int. Rev., L-23501, May 16, 1967, 20 SCRA 50; Surigao Electric Co., Inc. v. Court of Tax Appeals, L-25289, June 28, 1974, 57 SCRA 253, 528.)

Consequently, since the appeal of petitioner was filed beyond the 30-day period required under Section 11 of Republic Act No. 1125, this Court has acquired no jurisdiction to entertain said appeal and the same must be dismissed. (Lazaro v. Comm. of Customs, CTA Case No. 1154, Sept. 13, 1966.; Sales v. Comm. of Customs, CTA Case No. 1607, Feb. 28, 1967; Leonora and Co. v. Comm. of Customs, CTA Case No. 1615, Feb. 20, 1967; United Artists of the Phil., Inc. v. Comm. of Customs, CTA Case No. 1961, Aug. 13, 1969; Far East Management Corp. v. Comm. of Customs, CTA Case No. 1466, June 3, 1967; Compania Maritima v. Actg. Comm. of Customs, CTA Case No. 2492, Oct. 14, 1975.)

WHEREFORE, petitioner's appeal to this Court is hereby dismissed for lack of jurisdiction, without pronouncement of costs.

SO ORDERED.

Quezon City, December 15, 1976.

AMANTE FILLER
Associate Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

Presiding Judge Estanislao R. Alvarez did not take part.