REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

OMEGA SEA TRANSPORT CO.,
INC.,
Petitioner,

- versus - C.T.A. CASE NO. 4378

THE HONORABLE COMMISSIONER
OF CUSTOMS and MED LINE
PHILIPPINES, INC.,
Respondents.
x - - - - - - - - - - - - - - - x

RESOLUTION

Submitted for resolution is respondent's motion to dismiss filed on September 4, 1989 on the ground that this Court has no jurisdiction over the subject-matter of the petition, as well as petitioner's opposition thereto dated September 12, 1989.

As gathered from the records and pleadings filed by the parties, the factual antecedents of this case are as follows:

On January 19, 1989, the Bureau of Customs of the Port of San Fernando, La Union, issued a "Warrant of Seizure and Detention" of the vessel M/V Star Ace, which is allegedly owned by petitioner herein for violation of the provisions of the Tariff And Customs Code, and was docketed as "SFLU Seizure Identification No. 2-89, entitled Republic of the Philippines vs. M/V Star Ace." (Notice of Appeal with Supporting Memorandum. p.1, CTA rec.)

On January 30, 1989, respondent Med Line Philippines, Inc., filed a Motion for Intervention before the Collector of Customs of San fernando, La Union, claiming, among other things, that the M/V Star Ace was actually the vessel M/V Silver Med which was allegedly seajacked on September 14, 1988, and its name thereafter erased and changed to M/V Star Ace. (Par. 2, Notice of Appeal With Supporting Memorandum, p.1, CTA rec.; see also Order of Commissioner of Customs p. 14, CTA rec.)

On February 1, 1989 Mr. Manuel J. Marcos, assistant collector of customs of the Port of San Fernando, La Union, issued an order denying the motion of respondent Med Line Philippines, Inc., to intervene in the aforesaid seizure proceeding in view of the fact that the determination of ownership of a vessel is beyond the scope and jurisdiction of the Collector of Customs.(see Order, p. 13, CTA rec.)

On February 22, 1989, respondent Med Line Philippines, Inc., appealed the order of the Collector of Customs of San Fernando, La Union, to the Commissioner of Customs praying that the Order denying its motion for intervention be reversed and set aside and insists that it be allowed to intervene in said seizure proceeding S. Idn. No. 2-89. (See p.3, Petition, CTA rec.)

On June 22, 1989, respondent Commissioner of Customs issued an order reversing the ruling of the Collector of Customs, stating therein that Med Line Philippines, Inc., is a duly authorized attorney-in-fact and possesses the same interest as that of the principal and thus, directed the Collector of Customs to continue with the hearing of the subject case and allow respondent Med Line Philippines, Inc., to intervene and present its evidence.(pp.15-16, CTA rec.)

Hence, petitioner appealed to this Court imputing to the Commissioner grave abuse of discretion and/or excess of jurisdiction for issuing the aforesaid order.

The issue posed before Us for resolution is whether or not this Court has jurisdiction over the subject matter of the instant appeal.

The provision of the law applicable is Section 7(a) of Republic Act No. 1125 which provides as follows:

> "Sec. 7. <u>Jurisdiction</u>. The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal as herein provided.
>
> (1.) xxx xxx xxx
>
> (2.) <u>Decisions of the Commissioner of Customs</u> in cases involving liability for customs duties,

> fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters or part of law arising under the Customs Law or part of law administered by the Bureau of Customs; and"
>
> (3.) xxx xxx xxx

It is clear from the above-quoted provision of law that this Court can take cognizance and review by appeal the decision of the Commissioner of Customs in cases involving:

1. Liability for customs duties, fees or other money charges.

2. Seizure, detention or release of property affected.

3. Fines, forfeiture or other penalties imposed in relation thereto; or

4. Other matters arising under the Customs law or other laws or part of law administered by the Bureau of Customs.

The law is explicit, this Court can only take cognizance of an appeal if it involves decisions of the Commissioner of Customs in those cases enumerated in the aforesaid provisions of Section 7(2) of Republic Act No. 1125.

Petitioner in citing Section 2402 of the Tariff & Customs Code misses the fact that the main controversy is the seizure case and the order appealed from is merely interlocutory and thus unappealable. It is one of the tenets of our remedial law that only final judgments or orders are subject to appeal. Section 2402 of the Tariff & Customs Code is to be construed in conformity with Section 2 of Rule 41 of the Rules of Court.

We have held that the decisions of the Commissioner of Customs which are appealable to this Court are judgments or orders which are final in nature, and not interlocutory orders or judgments which do not dispose of the case completely but leave still something to be done upon the merits as required by law of the Commissioner of Customs or the Collector of Customs concerned. The purpose is to avoid multiplicity of suits. It finds legal sanction in Section 2, Rule 41 of the Rules of Court. (**Hatib Abdurasid, et al. vs. The Commissioner of Customs and The Collector of Customs of Jolo,** (Resolution) CTA Case No. 263, July 31, 1956 certiorari denied in L-11338, October 11, 1956.)

Moreover, petitioner in the present case seeks a declaration by this Court that the order of the Commissioner of Customs is not only erroneous, but issued with grave abuse of discretion or in excess of jurisdiction. There seems to be nothing in the provisions of Section 7 of Republic Act No. 1125 that confers jurisdiction on this Court to entertain petitions which are substantially in the form of actions for declaratory relief. (**See La Perla Cigar & Cigarette Factory, et al. vs. Secretary of Finance, et al.,** (Resolution) CTA Case No. 1892, May 29, 1968.)

WHEREFORE, this Court resolves to DISMISS petitioner's appeal for being premature. Costs against petitioner.

SO ORDERED.

Quezon City, Metro Manila, February 19, 1990.

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

(on leave)
CONSTANTE C. ROAQUIN
Associate Judge