REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

TATLE APPAREL MANUFACTURING,
Claimant/Petitioner,

- versus -

C.T.A. Case No. 5029

COMMISSIONER OF CUSTOMS,
Respondent.

Promulgated:
MAY 30 1995

x - x

DECISION

This is an appeal from the decision of the Commissioner of Customs dated August 4, 1993, received by petitioner on August 11, 1993 affirming the decision of the District Collector of Customs of Manila dated August 9, 1993, the dispositive portion of which reads:

> "Wherefore, by virtue of the authority in me vested by law, it is hereby ordered that the warehousing bonds covering the nine(9) Import Entries, Nos: 3903, 3910, 4076, 4246, 4999, 4569, 5140, 5359, and 5389, all series of 1989, in the name of CMBW No. 965-A owned and operated by Red Flower Garments, Inc., considered confiscated, and by virtue hereof, demand for the collection from the Insurance Company concerned be immediately made by this bureau's collection department should Tatle Apparel refuse to pay, and likewise the other four(4) importations under warehousing entries Nos: 5495-89, 5646-89, 5650-89 and 5805-89, which are still in the custody of CMBE 965-A, operated by Red Flower Garments, be FORFEITED

in favor of the government and to be disposed of "in manner that will ensure the payment of whatever outstanding obligation Tatle Apparel" has with the government.

"It is also provided that Red Flower Garments CMBW No. 965-A should immediately transfer from the said warehouse all the articles under the above-mentioned four(4) entries, to the Bureau of Customs Security Warehouse, for proper inventory and custody."

(Annex 1, p. 6, CTA records, p. 24)

The facts obtaining in the records of the case are as follows:

The above described import entries were filed in connection with the importations consigned to Red Flower Garments, Inc., a common Customs Manufacturing Bonded Warehouse (CMBW No. 965-A) for the account of Tatle Apparel Manufacturing, a duly accredited member thereof.

The said importations which were on consignment basis arrived at the Port of Manila, viz:

Import Entries Numbers		Date of Arrival	Country of Exportation
1.	No. 3909-89	June 06, 1989	Hongkong
2.	No. 3910-89	June 06, 1989	Hongkong
3.	No. 4076-89	May 25, 1989	Hongkong
4.	No. 4246-89	June 25, 1989	Hongkong
5.	No. 4999-89	July 14, 1989	Hongkong
6.	No. 4569-89	July 01, 1989	Taiwan
7.	No. 5140-89	July 17, 1989	Hongkong
8.	No. 5359-89	July 13, 1989	Hongkong
9.	No. 5389-89	July 28, 1989	Taiwan
10.	No. 5495-89	Aug. 02, 1989	Taiwan
11.	No. 5650-89	July 26, 1989	Taiwan
12.	No. 5805-89	Aug. 02, 1989	Hongkong
13.	No. 6546-89	Sept. 15, 1989	Hongkong

Which altogether consists of the following:

1. 113,982.8 yards of cotton denims,
2. 18,903.5 yards of canvas (pant materials),
3. 54,797.1 yards of pocketing materials,
4. 9,994 yards of TR Yarn twill 65% polyester & 35% yarns
5. 18,070.5 yards of 65/35 polydobbi, and
6. 12,015.5 yards of 5/25 polyrayon woven.

On January 15, 1990, the Garments and Textile Export Board (GTEB) charged Tatle Apparel Manufacturing (for brevity, Tatle) for violation of the rules and regulations of the GTEB as follows:

1. Unaccounted cut-piece goods totalling 494 pieces in violation of Section IV-B, Part II;

2. Physical inventory of goods sub-contracted to Lim-san Garment and F. Franco Garments showed that styles were different from the orders of the buyer and per Tatle's delivery receipts. Moreover, imported cut goods were issued to unaccredited subcontractors, in violation of Section III, E-9, 10 and 11, Part II; and

3 Misrepresentation of goods for export shipments covered by EP # GPED 671 in that the goods did not correspond to the purchase order; and as to the fabrics used in the manufacture of acid washed denim pants and the swatches allegedly used in such production of pants where discrepancies has been found, in violation of Section IV, Part III.

(Annex 4, CTA records, p. 34)

On March 2, 1990, the FTI Customs Office instituted seizure proceedings by issuing warrant of seizure and detention against various unexported fabrics and accessories covered by FTI entry nos. 5359, 5805, 5385, 5650, 5495, 6546, 4999 series of 1989. (Annex 5, C.T.A. records, p. 35). In this proceedings, Tatle, thru its counsel, presented documentary evidence as well as oral testimonies of several witnesses to prove that there was in fact exportation on its part of finished articles manufactured out of the subject importations.

The Bureau of Customs is still hearing the seizure proceedings when the GIEB rendered a decision on April 4, 1991 on Tatle's administrative case. It was found guilty of the following charges:

1. Failure to account for the cut-piece goods totalling 494 pieces which it received from the bonded warehouse of Red Flower Garments with the modification that the total unaccountability is actually 68,623 pieces (inclusive of the said 494 pieces), as proven during the trial.

2. Misrepresentation of the goods subcontracted to Lim-san Garments and F. Franco Garments and that said goods had styles different from the buyer of respondent.

3. Subject imported cut goods were issued by respondent to unaccredited subcontractors.

4. Misrepresentation of goods for export shipments covered by EP # GPED 671 and that the goods did not correspond to the purchase order; and also misrepresentation as to the fabrics used in the manufacture of acid washed denim pants and the swatches allegedly used in such production of pants.

(Customs Records, pp. 447-459.)

The District Collector of Customs, Port of Manila thereafter ruled on August 9, 1991 against Tatle (Id., pp. 857-862). A reconsideration of said decision was sought by Tatle (Id., pp. 863-867) however, it was denied in an order dated October 31, 1991 (Id., pp. 871-872). On appeal to the Commissioner of Customs, the decision of the District Collector of Customs, Port of Manila was affirmed in a decision dated August 4, 1993 (Id., pp. 883-886). Hence, the instant petition for review was filed with this Court on September 10, 1993 (CTA records, pp. 1-6.) An amended petition for review was subsequently filed on October 12, 1993 (Id., pp. 11-19).

The issue in this case is whether or not the order of confiscation and forfeiture issued by the District Collector of Customs, Port of Manila and affirmed by the Commissioner of Customs is legal and valid.

The arguments raised by petitioner in support of its case are the following:

1. The Bureau of Customs has no jurisdiction to rule on the forfeiture of importations under Import Entry Nos. 3909, 3910, 4076, 4246, 4569 and 4999, all series of 1989 because they are not included in the Warrant for Seizure and Detention Order dated March 2, 1990.

2. The Bureau of Customs erred in relying upon the GTEB Decision dated April 4, 1991 as its basis for resolving the instant seizure and forfeiture proceedings.

3. The Bureau of Customs erred in not allowing the liquidation of import entries for exportations of 4,150 dozens or 49,800 pieces.

4. The Bureau of Customs erred in ordering the forfeiture of fabrics/articles covered by Import Entry Nos. 5495-89, 5650-89, 5805-89 and 6546-89 because it was premature. The period for the re-exportation of the subject fabrics has not certainly expired.

Petitioner prayed that the order of confiscation and forfeiture be set aside and that judgment be rendered on the basis of the evidence and arguments presented before the Bureau of Customs and not before the GTEB, wherein the seizure proceedings was instituted.

On the other hand, respondent contends that Executive Order No. 537, creating the Garments and Textile Export Board (GTEB), as amended by Executive Order Nos. 823 and 952 are parts of customs law which the Bureau of Customs has authority to implement.

Having been found by the GTEB that the subject importations have violated its rules and regulations, these importations fall within the ambit of Section 2530(f) of the Tariff and Customs Code of the Philippines (TCCP). The various misrepresentations cited in the said GTEB decision committed by Tatle are violative of Section 2530(f) -3 of the same Code.

The Bureau of Customs pursuant to Section 1508 of the Tariff and Customs Code is authorized to hold the delivery of articles to importers with unsettled accounts in the Bureau and sell the same in like manner as in seizures to cover such account.

This provision applies to the fabrics covered by Import Entries Nos. 5495-89, 5650-89 and 6546-89 which are still in the possession of Red Flower Garments.

Premises considered, respondent prayed that the instant petition be dismissed for lack of merit.

This case was submitted for decision by petitioner's counsel solely on the basis of the pleadings and customs records and to which manifestation respondent's counsel concurred. Other than the foregoing, no documentary or testimonial evidence were formally offered by petitioner in support of its case.

In the Answer filed by the respondent he denies the allegations of the petitioner under the caption "Statement of Facts" for being inaccurate and incomplete, as well as the allegations under the caption "Discussion" for being devoid of factual and legal basis. It was therefor incumbent upon petitioner to prove its case there being "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. (see Far

East Marble (Phils.), Inc., et al. vs. Honorable Court of Appeals and Bank of the Philippine Islands, 225 SCRA 249 (1993)].

The Rules of Court in Rule 132 Section 34 thereof is quite clear that "the court shall consider no evidence which has not been formally offered" (**Veran vs. Court of Appeals,** G.R. No L-41154, Jan. 29, 1988). Under this rule, evidence not formally offered in court will not be taken into consideration by the court in disposing of the issues of a case (Martin, Revised Rules of Evidence, p. 589). It should be noted that the proceedings before the Court of Tax Appeals is a trial de novo and if petitioner desires to present evidence, it should do so (**C.F. Sharp, Inc. vs. Commissioner of Customs,** G.R. L-23803, Feb. 26, 1968).

Corollary to the above, the Collector of Customs when sitting in forfeiture proceedings, constitutes a tribunal upon which the law confers jurisdiction to hear and determine all questions touching the forfeiture and further disposition of the subject matter (**Republic vs. Court of First Instance of Manila,** Branch XXII, 213 SCRA 222). Judges recognize the expertise and experience of the administrative bodies in the examination and resolution of issues entrusted to their jurisdiction

(**Martires vs. Court of Appeals**, 188 SCRA 306). It is axiomatic that findings of facts of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are accorded not only respect but at times even finality (**Alejandro vs. Court of Appeals**, 191 SCRA 700).

A perusal of the records of the case would likewise show that the findings of respondent were supported by substantial evidence and bolstered by the GTEB decision which petitioner failed to overthrow.

WHEREFORE, the instant petition for review is hereby DISMISSED for lack of merit. The decision of the District Collector of Customs, Port of Manila, dated August 9, 1991 upheld by the Commissioner of Customs on August 4, 1993, is hereby AFFIRMED.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

MANUEL K. GRUBA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals