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Per.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

ISAAC CAMERO,
Petitioner,

C. T. A.
CASE NO. 1153

- versus -

THE COMMISSIONER OF CUSTOMS,
Respondent.
x- - - - - - - - - - - - - - x

July 30/63

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs affirming the decision of the Acting Collector of Customs for the Port of Manila requiring petitioner and his surety to pay, jointly and severally, in cash the sum of ₱2,723.33.

Petitioner is the claimant of a package of feather dusters and six packages of rattan split which arrived on board S/S Talleyrand on June 28, 1954 from Hongkong (Customs rec., pp. 109-111). Petitioner having failed to present a release certificate issued by the Central Bank of the Philippines or any of its authorized agent banks for said goods, seizure and forfeiture proceedings were commenced against the goods for violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code (Customs rec., pp. 91-108). Section 14 of Circular No. 44 provides:

> "No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any Authorized Agent Bank in a form prescribed by the Monetary Board."

Upon application by petitioner, the goods in question were released under Bond No. 2764 of the Century

Insurance Co., Inc., pending termination of the seizure and forfeiture proceedings (Customs rec., p. 88). After due hearing, the Acting Collector of Customs for the Port of Manila ordered the payment, jointly and severally by petitioner and his surety of the amount of the surety bond. Petitioner appealed to the Commissioner of Customs, who affirmed the decision of the Collector of Customs (Customs rec., pp. 113-116). Hence, this appeal.

Before submitting the case for decision, petitioner filed a motion to set aside the decision of the Commissioner of Customs and to dismiss the forfeiture proceedings on the ground that the repeal of Central Bank Circular Nos. 44 and 45 by Central Bank Circular No. 133 abated all liabilities incurred under the former circulars. Said motion was denied in open court.

Petitioner questions the legality and validity of Central Bank Circulars Nos. 44 and 45 on the ground that the same have been issued without the approval of the President of the Philippines. This contention is without merit. The legality and validity of Circulars Nos. 44 and 45 have been sustained by the Supreme Court in Francisco Pascual v. Commissioner of Customs, G. R. No. L-10979, June 30, 1959; Commissioner of Customs v. Pascual, G. R. No. L-9836, November 18, 1959; Commissioner of Customs v. Leuterio, G. R. No. L-9142, October 17, 1959.

Petitioner contends that Circular No. 133, which removed the control over foreign exchange, repealed Circular No. 44, and that whatever liability or penalty was incurred under Circular No. 44 was abated by the repeal. Petitioner's contention springs from an erroneous assumption that Circular No. 133 dispensed with the release certificate which was required under Circular No. 44. Paragraph 6 of Circular No. 133 provides:

> "6. Imports shall be released from the port of entry only upon presentation of a release certificate issued by the Central Bank based on letters of credit opened." (58 O. G. No. 5, p. 882).

There is no inconsistency between the provisions of Section 14 of Circular No. 44 and Circular No. 133. In view of the provisions of paragraph 8 of Circular No. 133, which we quote below:

> "8. All existing circular, rules, regulations, and conditions governing transactions in foreign exchange not inconsistent with the provision of this Circular, are deemed incorporated hereto and made integral parts hereof by reference."

Section 14 of Circular No. 44, far from being repealed, is deemed incorporated and made an integral part of Circular No. 133. Even assuming arguendo that, by reason of inconsistency, Circular No. 44 has been repealed by Circular No. 133, the validity of the forfeiture under the former circular is not affected by such repeal, for the merchandise in question were imported illegally while the former circular was still in force. The expiration of Central Bank Circular No. 44 did not have the effect of legalizing an importation of goods which was illegal at the time of importation (Lazaro v. Commissioner of Customs, C.T.A.

Nos. 833 and 834, June 14, 1963; F. Sare Enterprises vs. Commissioner of Customs, C.T.A. No. 752, July 3, 1963).

IN VIEW OF THE FOREGOING, the decision appealed from is hereby affirmed. With costs against petitioner.

SO ORDERED.

Manila, July 30, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge