REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

NATIONAL STEEL CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6140

TARIFF COMMISSION, TON YI INDUSTRIES CORP., SHENG YU STEEL CO., LTD., YIEH PHUI ENTERPRISE CO., LTD., CHINA STEEL CORP.,
Respondents.

Promulgated:
JAN 15 2001

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# RESOLUTION

Submitted for resolution is a Motion to Dismiss filed on September 25, 2000 by public respondent Tariff Commission urging for the dismissal of the instant petition on the ground that the Court of Tax Appeals lacks jurisdiction over the appeal because public respondent's Report on Findings does not impose dumping duty. Petitioner filed its opposition thereto on October 5, 2000 and a reply was filed by the Tariff Commission on October 30, 2000.

Movant anchored its motion on subsection I of Republic Act No. 7843 or the Anti-Dumping Act of 1994, amending Section 301 of the Tariff and Customs Code which provides, to wit:

> "Any aggrieved party may appeal only the amount of the dumping duty to the Court of Tax Appeals in the same manner and within the same period as provided for by law in the case of appeal from decision of the

> Commissioner of Customs. The findings of fact in a dumping case shall be final and conclusive."

The Tariff Commission asserts that since its Report of Findings interposed no dumping duty, the Court of Tax Appeals has no jurisdiction to take cognizance of the present petition based on the above provision of law. Further, the Court of Appeals, in the case of **Total 2000 Corporation vs. The Court of Tax Appeals, CA-G.R. SP No. 42380, February 18, 1997,** ruled that the CTA is without jurisdiction if the anti-dumping decision of the Secretary of Finance does not impose any dumping duty.

Petitioner, however, argues that the applicable law is Republic Act No. 8752 or the Anti-Dumping Act of 1999 which was already in force at the time the Report of Findings issued by the Tariff Commission was received by the Petitioner on May 11, 2000. Petitioner avers that a party has a right to appeal a "negative finding of the Tariff Commission" relying upon subsection (l) of R.A. No. 8752, *viz*:

> "In case of a negative finding by the Commission, the Secretary shall issue, after the lapse of the period for the petitioner to appeal to the Court of Tax Appeals, through the Secretary of Finance, an order for the Commissioner of Customs for the immediate release of the cash bond to the importer. In addition, all the parties concerned shall also be properly notified of the dismissal of the case."

The Tariff Commission believes otherwise. It firmly asserts that it is subsection (p) of R.A. No. 8752 which is the controlling provision on the right of a party to appeal to the Court of Tax Appeals from a final ruling in connection with the imposition of an anti-dumping duty. Said subsection is hereunder quoted for easy reference:

> (p) *Judicial Review.* - Any interested party in an anti-dumping investigation who is adversely affected by a final ruling in connection with the imposition of an anti-dumping duty may file with the Court of Tax Appeals, a petition for the review of such ruling within thirty (30) days

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> from his receipt of notice of the final ruling: *Provided, however*, That the filing of such petition for review shall not in any way stop, suspend, or otherwise hold the imposition or collection, as the case may be, of the anti-dumping duty on the imported product, commodity or article. The rules of procedure of the court on the petition for review filed with the Court of Tax Appeals shall be applied.

We agree with movant-Tariff Commission that a close perusal of the aforequoted subsection (l) would disclose that the same is not intended to grant any party a right to appeal its case to the CTA in case of a negative finding and non-imposition of an anti-dumping duty by the Commission. Note that subsection (l) is entitled "Imposition of the Anti-Dumping Duty" in contrast to subsection (p) which is entitled "Judicial Review". Under the rule on statutory construction, force and significance of particular expressions will depend mostly upon the connection in which they are found (Handbook on Statutory Construction, Martin, p. 132). Between the two subsections, the controlling provision therefore on the right of a party to appeal to the CTA is the latter.

We opine that the main thrust of subsection (l) is the issuance of an order by the Secretary for the release of the cash bond after a negative finding. The right to appeal from a negative finding cannot simply be inferred from the mere mention of the phrases "in case of a negative finding by the Commission" and "after the lapse of the period for the petition to appeal to the Court of Tax Appeals". The reference to the period to appeal to the CTA is simply to provide for a reckoning period for the Secretary to issue an Order for the Commissioner of Customs to immediately release the cash bond to the importers in case of a negative finding by the Commission. Whereas in case of a final affirmative determination by the Commission, the Secretary is mandated to order the imposition of the anti-dumping duty through a Department Order as well as to apply the cash bond, if any, to the said dumping duty.

On the other hand, subsection (p) provides for a more direct and unequivocal authority on when judicial appeal to the CTA is proper as compared to the mere collateral citation in subsection (l). It must be pointed out that the right to appeal, being a mere statutory right, cannot be simply based on mere implications.

The provision of subsection (p) is quite clear. Thus, only a party who is adversely affected by a final ruling in connection with the imposition of an anti-dumping duty may file a petition for review with the CTA. Considering that in the case at bar no anti-dumping duty was imposed, filing a petition for review with the CTA is not proper. To put it differently, the CTA has no jurisdiction to entertain the same.

The rationale for defining limits upon the jurisdiction of the CTA on appeals from dumping decisions is anchored on the recognition by law of the presumed expertise of the investigating/deciding authority in the dumping case.

It is likewise worth stressing at this point that Republic Act No. 1125, An Act Creating the Court of Tax Appeals, vested the CTA jurisdiction over the following:

> **SEC. 7.** ***Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessment, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> (2) Decisions of the Commissioner of Customs 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 arising under the Customs law or other law or part of law administered by the Bureau of Customs; and
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R.A. No. 1125 created a special court to review on the subject matters above enumerated. Now, to adopt Petitioner's view would mean that the Anti-Dumping Act of 1999 enlarges CTA's jurisdiction as it will now review the findings of the Tariff Commission regardless of whether a dumping duty is imposed or not. We hold that that is not the intendment of the law.

Accordingly, it is more logical to conclude that the CTA has jurisdiction only in cases when a dumping duty is imposed wherein it can re-compute or review the amount so imposed.

Stated otherwise, the jurisdiction of this Court is not only limited to decisions of the Commissioner of Internal Revenue and Commissioner of Customs, as mentioned in R.A. 1125 (The Law Creating the Court of Tax Appeals), but also includes decisions of the Secretary of Finance in certain cases as clearly provided for in Section 2315 of PD 1464, otherwise known as The Tariff and Customs Code of the Philippines (TCCP). The jurisdiction of this Court was likewise expanded by Section 301 of the TCCP as amended by R.A. 8752 (The Anti-Dumping Act of 1999). Paragraph (p) of said Section 301 of the TCCP, as amended, provides that any party adversely affected by a final ruling <u>in connection with the imposition of an anti-dumping duty</u> may file a petition for review with this Court. Since in the case at bar it was not disputed that no anti-dumping duty has been imposed, the Court has no jurisdiction over the instant case.

Finally, basic is the rule that all parts of the statute are to be harmonized and reconciled so that effect may be given to each and every part thereof. Nevertheless, assuming that there exists a real conflict between subsections (l) and (p), We concur with

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the Public Respondent that the doubt should be resolve in favor of the latter because it has been held that the provision last in order of position will prevail as being the latest expression of the intent of the legislation. (Arenas vs. City of San Carlos, 82 SCRA 318). Moreover, when one provision or section of a statute treats specially and solely of a matter, that section or provision prevails over other sections to which only incidental reference is made thereto. (Handbook on Statutory Construction, Martin, 5th ed., p. 148).

**IN VIEW OF ALL THE FOREGOING,** the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

**SO ORDERED.**

**ERNESTO D. ACOSTA**
Presiding Judge

**AMANCIO Q. SAGA**
Associate Judge

**RAMON O. DE VEYRA**
Associate Judge

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