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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PRIVATE JEEP BEARING
PLATE NO. 33-9, 91J-70;
MR. BONIFACIO TAYAN,
DRIVER & MISS ELEONOR
ENCARNACION, PASSENGER
AND DAUGHTER OF OWNER OF
JEEP; and 50 REAMS OF
CHAMPION BRAND OF BSC,
Petitioners,

versus

C.T.A. CASE NO. 2386

THE COMMISSIONER OF CUSTOMS,
Respondent.

5/15/75

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D E C I S I O N

This is an appeal from the decision of respondent Commissioner of Customs dated May 24, 1971, which modified that of the Collector of Customs of Zamboanga, dated March 26, 1971.

In so far as material to this appeal, the facts of the case are as stated in the memorandum of counsel for respondent dated May 30, 1974, as follows:

The record shows that at about 4:10 P.M. on September 14, 1970, the apprehending officers, members of the SOWESCOM TASK FORCE VULTURE, while manning the checkpoint established at Pangl, Ipil, Zamboanga del Sur, stopped private jeep bearing Plate No. 33-9, 91-J-70 which was bound for Cabasalan, Zamboanga del Sur, for routine inspection in connection with the SOWESCOM's anti-smuggling drive and discovered 50 reams of blue seal cigarettes on board the jeep. The said cigarettes were subsequently counted and a certificate of ownership was duly signed by the herein petitioner Eleonor Encarnacion, daughter of the registered owner of the vehicle and one of the two women passengers, and by the driver of the

jeep in the presence of the apprehending team, which certificate was subsequently introduced in evidence and marked as Exhibit "A". Subsequently, the blue seal cigarettes were turned over to the CADA, Zamboanga City, by the members of the apprehending team as evidenced by a transfer slip which was marked as Exhibit "J". The private jeep involved in this case was not immediately taken into custody by the apprehending officers as per request of petitioner Eleonor Encarnacion and the driver who were allowed to use said jeep in returning back to Kabasalan, Zamboanga del Sur as they were benighted and there was no more available transportation. It was after the lapse of several days that these apprehending officers were able to acquire physical possession of the jeep and that was after a warrant of seizure and detention issued by the Collector of Customs was served on Abraham Encarnacion, father of petitioner Eleonor Encarnacion.

On March 26, 1971, the Collector of Customs of Zamboanga rendered a decision decreeing the forfeiture of the aforesaid 50 reams of untaxed blue seal cigarettes but ordering the release of the private jeep bearing Plate No. 33-9, 91-70. The Southwest Command, AFP, Zamboanga City, acting in behalf of the government, appealed the decision of the Collector of Customs to the Commissioner of Customs, who, modifying the decision of the former, adjudged the forfeiture of the private jeep in question in favor of the government.

The Collector of Customs of Zamboanga ordered the forfeiture of 50 reams of untaxed Champion cigarettes, but ordered the release of the jeep bearing Plate No. 33-9, 91 J-70, for lack of sufficient evidence to justify its forfeiture. The owner or claimant of the jeep requested that the jeep be released on the ground that said decision is not appealable by the Government, citing Republic v. Dy Chay, 1 SCRA 975. The request

DECISION -
CTA CASE NO. 2386

3

was denied because the decision of the Collector of Customs was appealed by Capt. Victor O. Jose of the SOWESCOM Task Force Vulture which effected the seizure of said jeep. Respondent Commissioner of Customs gave due course to the appeal and reversed the decision of the Collector of Customs in regard to the jeep in question. Hence, this appeal by the owner of the jeep.

Two issues have been raised in this appeal: (1) whether the appeal from the decision of the Collector of Customs of Zamboanga by the head of SOWESCOM Task Force Vulture is proper, and (2) whether the forfeiture of the said jeep is valid.

Section 2313 of the Tariff and Customs Code provides:

SEC. 2313. Review by Commissioner.—
The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the Collector of his action or decision, give written notice to the Collector of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision.

Under this section of the Tariff and Customs Code only the person aggrieved by the decision or action of the Collector of Customs in any case of seizure may appeal to the Commissioner of Customs. It was Capt. Jose, head of the SOWESCOM Task Force Vulture, a government

DECISION -
CTA CASE NO. 2386

4

agency operating under the Bureau of Customs, who appealed from the decision of the Collector of Customs of Zamboanga. Neither Capt. Jose nor the Bureau of Customs may be considered the person aggrieved by said decision of the Collector. Consequently, respondent has no authority to give due course to the appeal and his action in modifying or reversing the decision of the Collector is illegal.

It is now well settled that "under the present law governing the Bureau of Customs, the decision of the Collector of Customs in a seizure case if not protested and appealed by the importer (the person aggrieved) to the Commissioner of Customs on time, becomes final not only as to him but against the Government as well, and neither the Commissioner nor the Department head has the power to review, revise or modify such unappealed decision." (Sy Man v. Jacinto, 93 Phil. 1093, 1107; see also Actg. Collector of Customs v. Actg. Commissioner of Customs, 102 Phil. 244, cited in Republic v. Dy Chay, 1 SCRA 975.) If the Commissioner of Customs does not agree with the action of a Collector of Customs in a seizure case, the remedy is not by an appeal from the decision of the Collector but by the exercise of his supervisory authority over Collectors of Customs before such decision shall have become final. Said the Supreme Court:

It is argued that if this power of review and revision by the Commissioner of unappealed seizure cases is not conceded, then in cases where the Collector in his decision commits a blunder prejudicial to the inter-

ests of the Government, or renders a decision through fraud or in collusion with the importer, the Government cannot protect itself. The argument is not without merit; but we must bear in mind that the law is promulgated to operate on ordinary, common, routine cases. The rule is and the law presumes that in seizure cases Collectors of Customs act honestly and correctly and as Government officials, always with an eye to the protection of the interests of the Government employing them. If mistakes are committed at all more often than not they are in favor of the Government and not against it, and that is the reason why when the importer feels aggrieved by their decision, he is given every chance and facility to protest the decision and appeal to the Commissioner. Cases of erroneous decisions against the interest of the Government of decisions rendered in collusion and connivance with importers are the exception. To protect the Government in such exceptional cases, we find that in every seizure case, section 1378 of the Revised Administrative Code requires the Collector to immediately notify the Commissioner and the Auditor General. It may be that this requirement has for its main purpose the recording of and accounting for the articles seized so that in case of confiscation the Commissioner and the Auditor General will know what articles have become government property. But the notice will also inform the Commissioner and the Auditor General of the seizure. If the seizure is important or unusual, the Commissioner may, if he so desires, order the Collector as his subordinate to withhold action on the seizure, or hold in abeyance, within a reasonable time, the promulgation of his decision until after he had conferred with the Commissioner or the latter had studied the case and given suggestions. At that stage of the proceedings before definite action is taken by the Collector, and a decision rendered by him, it would seem that any action by him as a subordinate is still subject to the supervisory authority and control of the Commissioner as his Chief, and the latter may still influence and direct the Collector's action if he finds occasion for doing so. (Sy Man v. Jacinto, 93 Phil. 1093, 1105-1106.)

DECISION -
CTA CASE NO. 2386

6

The case of Generoso de Leon v. Commissioner of Customs, C.T.A. No. 1942, Jan. 27, 1969 is being cited in support of the claim that an appeal from the decision of a Collector of Customs in a seizure case may be filed by officers of the Government effecting the seizure. That case is not in point. The issue whether or not the appeal was filed by the proper party was never raised in that case and this Court had no opportunity to pass upon said issue.

In view of our opinion that the respondent has no authority to review, reverse or modify the decision of the Collector of Customs of Zamboanga upon appeal of the officer who effected the seizure of the jeep in question, we find it unnecessary to pass upon the second issue.

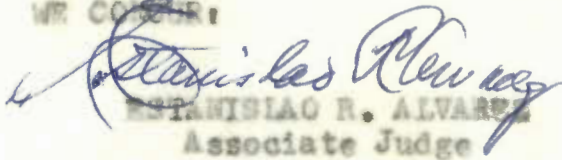
WHEREFORE, the decision appealed from is hereby set aside.

SO ORDERED.

Quezon City, May 15, 1975.


ROMAN M. UMALI
Presiding Judge

WE CONCUR:


ESTANISLAO R. ALVAREZ
Associate Judge


RAMON L. AVANCERA
Associate Judge