REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

CHIOK CHUN,
Petitioner,

- versus - May 10, 1957 C.T.A. CASE NO. 288

COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs dated May 10, 1956, affirming the decision of the Collector of Customs for the Port of Manila dated March 27, 1956, in Seizure Identification No. 4089, which decreed the forfeiture of various articles for violation of Republic Act No. 1410.

On December 26, 1955, petitioner Chick Chun, a Chinese resident of the Philippines, returned to Manila from Hongkong aboard the S.S. "KOREA" bringing with him various articles. These consisted mainly of foodstuff and some assorted articles which were appraised by customs officers at $2,293.95, or ₱4,587.90. After the corresponding customs duties and taxes were paid, the greater portion of the goods was ordered released to petitioner but the rest were seized under Seizure Identification No. 4089 for violation of Section 1 (c) of Republic Act No. 1410. After hearing, the goods seized, except 7 legs of ham, were declared forfeited to the Government by the Collector of Customs in a decision dated March 27, 1956. Upon appeal, the same was affirmed in toto by the Commissioner of Customs on May 10, 1956. From the latter decision, petitioner filed the instant petition for review. Pending trial and pursuant to the resolution of this Court dated December 19, 1956, the seized articles were sold at public auction, out of which sale the sum of ₱3,502.00 was realized and deposited with the Custom's Cashier under Official Receipts Nos. 72984 and 72985, dated January 2, 1957.

The goods released to the petitioner are detailed below with their corresponding quantities, weights, and appraised values:

Quantity and Kind	Weight	Appraised Value
1 Crate, Salted Fish	210 Kls.	$ 52.50
4 Cs., Dried Shrimps	788 "	472.00
1 Bundle, Preserved Veg.	196 "	39.20
1 Cs., Rice Powder	104 "	20.80
1 Crate Chili Sauce	197 "	39.00
1 " Veg. Sauce	197 "	39.00
1 Cs., Dried Oyster and Squid	260 "	130.00
1 Pkg. Dried Abalone	156 "	78.00
1 " " Shellfish	133 "	79.80
1 " Shark's Fins	168 "	84.00
1 " Melon Seeds	192 "	48.00
1 " Preserved Beans	161 "	32.20
1 " " "Leek"	161 "	32.20
1 " Dried Fruit (dates)	126 "	75.60
3 Tins Chinese Cakes	-	--
12 Pcs. Chinese Year Booklets	-	5.00
1 Dz. Knitted Cotton Vests	-	3.00
2 Pairs Chinese Shoes	-	2.00
1 Pc. Toy Horse	-	8.00
1 Pc. Camphor Chest	-	5.00
5 Baskets Fresh Pears	250 "	50.00
3 " Chesnuts	222 "	44.40
8 " Water Chesnuts	568 "	142.00
2 Boxes Quail Eggs	66 "	20.00
7 Legs Ham	23.24 Kls.	23.24
TOTAL	4,178.24	$1,476.94

The goods which were seized and forfeited to the government and which constitute the subject matter of the appeal are as follows:

Quantity and Kind	Weight	Appraised Value
3 Pks. Salted Fish	630 Kls.	$157.50
1 Pkg. Dried Abalone	156 "	78.00
2 Pkgs. Shark's Fins	336 "	168.00
3 Pkgs. Preserved Veg.	588 "	156.00
1 Pkg. Dried Fruit (dates)	126.0"	75.60
40 Legs Ham	132.8"	132.80
TOTAL	1,968.8 Kls.	$767.90

The goods enumerated above, consisting of more than six (6) tons of foodstuff and other articles, were brought by petitioner from Hongkong allegedly for his personal consumption and for distribution to his relatives and friends as gifts. The release of said goods from customs was sought by petitioner under Section 1(c) of Republic Act No. 1410 as goods brought by a returning resident, not exceeding ₱5,000.00 in value, and imported under the so-called no-dollar-remittance basis. More than four (4) tons of said goods were released, the Collector of Customs of Manila and respondent Commissioner having been satisfied that they were brought from abroad for personal use by petitioner, while only about two (2) tons (exactly 1,968.8 kilos) were forfeited because they were found to have been imported for commercial purposes.

The only issue here concerns the legality of the forfeiture of 1,968.8 kilos of salted fish, dried abalone, shark's fins, preserved vegetables, dried fruit and ham.

Sections 1 (c) and 3 of Republic Act No. 1410 read as follows:

> "Section 1. No importation into the Philippines under the so-called 'no dollar remittance' shall be allowed except:
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> x x x x
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> "(c) Commodities brought from abroad by a person who is returning to the Philippines, provided they are not being brought for commercial purposes, and do not exceed five thousand pesos in value, unless there is evidence of abuse of this privilege, provided this allowance will be granted only to person returning to the Philippines once a year."
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> "Section 3. Any violation of this law or any provision hereof shall subject the articles imported to seizure and confiscation by the Collector of Customs without any right of redemption or release under bond, existing laws to the contrary notwithstanding: Provided, however, That goods and commodities in transit or previously imported on a no-dollar remittance basis at the time of the approval of this Act shall not be affected by the operation of this Act."

The importation of commodities which does not involve the sale of foreign exchange (no dollar remittance) is permitted under Section 1 (c) of Republic Act No. 1410 if the importer is a returning resident and the value of the commodities imported does not exceed ₱5,000.00. However, the privilege cannot be enjoyed where the commodities imported are for commercial purposes, or where there is evidence of abuse of the privilege, or where the returning resident has gone abroad more than once a year.

There is no question that petitioner, at the time of the importation here involved, was a returning resident and that the value of the goods did not exceed ₱5,000.00. But the forfeiture of the 1,968.8 kilos of salted fish, dried abalone, shark's fins, preserved vegetables, dried fruit and ham is sought to be justified by respondent on the grounds that petitioner was abroad not only once but twice in 1955, the year of importation; that the goods were brought for commercial purposes; and that there was abuse of the privilege granted under Section 1 (c) of Republic Act No. 1410.

While it appears that petitioner made two trips abroad in 1955, the first trip was made before Republic Act No. 1410 became effective on September 10, 1955, and the second trip was made after the effectivity of said Act when he brought the goods here in question sometime in December of that year. The said Act is, therefore, inapplicable to the previous importations. (See the proviso contained in Section 3, Republic Act No. 1410.) In fact, neither the Collector of Customs nor the Commissioner raised the question during the proceedings in the Bureau of Customs, and counsel for the Government have made but a passing remark on the question in their memorandum.

Were the forfeited goods brought by petitioner for commercial purposes? It is contended on behalf of petitioner that they were brought solely for his personal use and for distribution to his relatives and friends as gifts. The Collector of Customs of Manila found that they were brought for commercial purposes, and this was concurred in by respondent Com-

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missioner of Customs. Said the Collector of Customs:

> "It has been established by the evidence presented that the herein claimant has no dependents. In fact, according to his testimony, he is dependent on his father for support. It would seem strange for one like the said claimant to be giving away articles as gifts to his relatives and friends when in truth and in fact he himself needs more of them at least for his existence and betterment. Considering therefore the social standing of said claimant and the quantity of the subject merchandise which is quite considerable, it is hard to believe that the articles were brought into the country for his personal use. It is more logical to believe that they are really intended for commercial purposes. Besides, where it has been adduced that the claimant's father is presently engaged in grocery business, it is likely that the articles under consideration would find their way to the open market in violation of the provisions of law under which the same were seized. x x ." (Pp. 2-3, Decision of Collector of Customs, March 27, 1956.)

Considering that petitioner at the time of the importation was unemployed and that he was solely dependent upon his father for support, it is inconceivable that he should find it necessary to bring in more than six tons of foodstuff and other articles not mainly for his personal consumption and that of his family but for distribution as gifts to friends and relatives. We are inclined to agree with respondent that a portion of said goods was brought by petitioner for commercial purposes. This finding is bolstered by petitioner's own admission that part of the goods brought by him was intended for the "panciteria" of his relatives. (Page 44, Customs Records.)

Even granting that petitioner brought the goods from Hongkong partly for his personal use and partly for distribution as gifts, the importation of more than six tons of foodstuff and other articles at any one time under the no-dollar-remittance basis is undoubtedly excessive and an abuse of the privilege conferred by Section 1 (c) of Republic Act No. 1410, which justifies forfeiture under Section 3 of said Act.

Finding no reversible error in the decision appealed from, the same is hereby affirmed with costs against petitioner.

SO ORDERED.

Manila, Philippines, May 10, 1957.

R M Umali
ROMAN M. UMALI
Associate Judge

I CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge
(On Leave)