JAMES G. BLAIR,
Petitioner,

- versus - C.T.A. CASE NO. 686

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from the decision of respondent Commissioner of Customs ordering the forfeiture of ten (10) pinball machines imported from abroad for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Administrative Code; Section 1363(m)-3 and -4 of the Administrative Code; and Section 3(c) of the Philippine Tariff Act of 1909.

It appears that the ten pinball machines in question arrived at the Port of Manila on December 8, 1954, consigned to petitioner herein. Seizure proceeding was immediately instituted against said articles for violation of Section 1363(f), (g), (i), and (m)-2, -3, -4 and -5 of the Administrative Code; Central Bank Circulars Nos. 44 and 45; and Section 3(c) of the Tariff Act of 1909. In his decision of September 6, 1955, the Collector of Customs of Manila ordered the forfeiture of said articles solely under Section 1363(f) of the Administrative Code on the ground that the importation was not covered by any release certificate of the Central Bank in violation of Circulars Nos. 44 and 45. The other charges were dismissed. On appeal by petitioner to respondent Commissioner of Customs, the latter affirmed the decree of forfeiture not only for violation of Central Bank Circulars Nos. 44 and 45 but also for violation of Section 1363(m)-3 and -4 of the Administrative Code and Section 3(c) of the Tariff Act of 1909. Hence, this appeal.

It is now settled that an importation not covered by a release certificate of the Central Bank, in violation of Circulars Nos. 44 and 45, are subject to forfeiture under Section 1363(f) of the Administrative Code. (Pascual v. Commissioner of Customs, G. R. No. L-10979, June 30, 1959; Acting Com. of Customs v. Leuterio, G. R. No. L-9142, Oct. 17, 1959.)

The records also show that the said pinball machines were misdeclared. They were made to appear as "personal effects," although they were obviously intended for commercial or business purposes. The forfeiture of said articles under Section 1363(m)-3 and -4 of the Administrative Code is, therefore, in order.

Respondent also ordered the forfeiture of the said pimball machines on the ground that they are gambling devices, the importation of which is absolutely prohibited under Section 3(c) of the Philippine Tariff Act of 1909, thereby overruling the opinion of the Collector of Customs of Manila. That pinball machines are gambling devices is now a settled matter (Uy Ha v. The City Mayor, G. R. Nos. L-14149 and L-

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14069, May 30, 1960), and, therefore, the decision of respondent is in order.

It is, however, argued that the Commissioner of Customs can not pass upon issues not raised on appeal by the importer; hence, it was improper for the Commissioner to order the forfeiture of the pinball machines under Section 1363(m)-3 and -4 of the Administrative Code and Section 3(e) of the Philippine Tariff Act of 1909. We believe that the Commissioner of Customs, in the exercise of his appellate power, is not limited to a review of the issues raised on appeal, but may affirm or reverse the decisions of his subordinate officers on other questions, provided his findings and conclusions are supported by the evidence. In the instant case, the findings and conclusions of respondent are adequately supported by the evidence of record.

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

SO ORDERED.

Manila, March 25, 1961.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

Presiding Judge MARIANO NABLE did not take part.

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