REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CAMPOS RUEDA CORPORATION,
Petitioner,

- versus -

C.T.A. CASE No. 2182

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - - - x

July 3/71

D E C I S I O N

Petitioner Campos Rueda Corporation seeks a review of a decision of respondent Commissioner of Customs affirming the denial by the Collector of Customs of Manila of a protest filed by it against the assessment and collection of customs duties and taxes in the amount of ₱3,411.00 on its importation of 30 crates of "aluminum slats."

Reproduced below are the undisputed findings of facts narrated in the decision of respondent appealed from and which were also adopted by counsel for petitioner:

> The shipment consisting of 30 crates, described in shipping papers, commercial invoices and other related documents as "aluminum slats", arrived in the Port of Manila on April 17, 1969 on board the M/S "Philippine Leonila", Reg. No. 733 under Bill of Lading No. 6 and entered under Import Entry No. 35763, series of 1969. For tariff purposes, the importer, the Campos Rueda Corporation, through their customs broker, declared the articles under tariff heading No. 76.03-A at 30% ad valorem, which declaration was confirmed by the Customs Examiner upon examination and accepted by the Customs Appraiser concerned. Duties and taxes as assessed

in the amount of ₱6,502.00 were duly paid and receipted for on May 6, 1969 under Central Bank Official Receipt No. 36102.

On May 20, 1969 the importer firm through its Assistant General Manager filed a letter-protest with the Collector of the Port, seeking a refund of the amount of ₱3,411.00 representing an alleged excess in the assessment of customs duties made on the shipment, importer firm averring that through inadvertence, the subject articles were declared under tariff heading No. 76.03 sub-paragraph "A" at 30% _ad valorem_ instead of sub-paragraph "B" of the same tariff heading at 10% _ad valorem_. (Exhibit B)

As correctly stated by respondent Commissioner of Customs and accepted by petitioner, there is no dispute that the applicable tariff heading is No. 76.03 of the Tariff and Customs Code. The only issue as presented by the parties is whether the articles should be appraised and classified under sub-paragraph "A" with an _ad valorem_ duty of 30% or sub-paragraph "B" at only 10% _ad valorem_.

Tariff heading No. 76.03, as amended by Executive Order No. 66, January 25, 1964, reads as follows:

76.03 Wrought plates, sheets and strips, of aluminum:

A - Plates, sheets and strips, cut to length or shape, embossed, corrugated, ribbed, channeled or curved; circle sheets; coiled sheets and strips (excluding tubed sheets for refrigerators, perforated or color-enamelled sheets, and perforated or color-enamelled oiled sheets).

	ad val.	30%
B. Others	ad val.	10%

And under Notes I(c) of Chapter 76 of the Tariff and Customs Code, it is stated that:

1. As used in this Chapter, the following words and phrases shall mean:

   (c) Wrought plates, sheets, and strips (heading No. 76.03):

   Flat-surfaced, wrought products (coiled or not), of which the maximum cross-sectional dimension exceeds six millimeters, and of which the thickness exceeds 0.15 millimeters but does not exceed one-tenth of the width. Heading No. 76.03 shall apply to such products whether or not cut to shape, perforated, corrugated, ribbed, channeled, curbed, polished or coated."

Back to the findings of facts of respondent, we again quote:

> The articles under consideration in this appeal are described in the various documents relating to the shipment as, "aluminum slats, premium quality, 0.22 mm x 50.8 mm x 2000 ft. per coil", description of which was confirmed by the Customs Examiner as indicated in the return on examination. The sample attached to the record (Exhibit "10") show that it is colored and the main dimensions, at least the width thereof, tallies with the findings of the Appraisers Division. Customs Laboratory analysis in its report dated May 5, 1970 showed that the article (sample) is, "made of aluminum, coated with dirty white lacquer enamel." (Lab. Report 70-180.) (Exh. B-2.)

If the subject articles are 0.22 millimeter in thickness (which exceeds 0.15 millimeter but does not exceed one-tenth of its width); 50.8 millimeters in width or cross-sectional dimension (which exceeds six millimeters); are coiled in 2,000 feet lengths; and are color-enamelled, they fall within the exceptions provided for by the above cited sub-heading "A" of heading No. 76.03 of the Tariff and Customs Code, and being excepted, should be classified under sub-heading "B" of the same heading No. 76.03 with an ad valorem duty duty of 10%.

The articles under consideration are described however in the various documents relating to the shipment as "aluminum slats" and declared by petitioner's customs broker (although inadvertently, as claimed) under tariff heading No. 76.03, sub-paragraph "A" at 30% ad valorem duty. Respondent thus takes the position that aluminum slats being essentially aluminum strips, they should be classified under tariff heading No. 76.03, sub-paragraph "A".

This brings us to the uncontradicted testimony of the owner and general manager of the Zip Manufacturing Enterprises, Mr. Eusebio Nazario, to the effect that he had for at least fifty times imported from the United States and Japan aluminum slats which are exactly the same as the articles in question; that said articles are actually aluminum sheets but they are commercially known as aluminum slats; that these materials are used in the production of venetian blinds, which is the business of the Zip Manufacturing Enterprizes; that in all of the importations that he made, he only paid 10% ad valorem for the release of the articles from the Bureau of Customs; that sometime in August, 1966, he requested the Tariff Commission to make a tariff classification of these articles and in response thereto, the said Commission issued a ruling on September 6, 1966 stating that the said articles are subject to only 10% ad valorem. (Exhibit K.)

In this connection, petitioner submitted the opinion of the Secretary of Justice dated February 8, 1968 (Exhibit X) which states that the tariff classification made by the Tariff Commission under section 1313(a) of the Tariff and Customs Code is binding upon the Bureau of Customs. Since the theory of respondent that aluminum slats are essentially aluminum strips and thus should be classified under tariff heading No. 76.03 sub-paragraph "A" at 30% ad valorem duty is based only on a mere view of a customs appraiser, worthwhile noting in the opinion of the Secretary of Justice is the reconciliation of the apparent conflict between the authority of the Tariff Commission under section 1313(a) of the Tariff and Customs Code to indicate the heading under which an article is dutiable and the duties of appraisers under section 1404 of the same Code to appraise and classify articles.

We quote with approval from the said opinion of the Secretary of Justice:

> When an article intended to be imported is not specifically mentioned in the Tariff and Customs Code, the Tariff Commission is authorized by section 1313(a), when so requested by the interested party, to indicate "the heading under which the article is or shall be dutiable," and the classification of the article upon importation "shall be made according to the heading indicated by the Tariff Commission." And this is binding upon the Bureau of Customs. However, in all other cases including those involving articles "not specifically mentioned in said Code," e.g. where no classification has been made by the Tariff Commission "prior to entry," the Bureau of Customs has, pursuant to section 1404, the authority to appraise and classify all articles imported in accordance with the categories fixed by said Code. (Exhibit X, pp. 39-40, CTA records.)

Since "aluminum slats, premium quality, 0.22 mm x 50.8 mm x 2000 ft. per coil" is not specifically mentioned in the Tariff and Customs Code, the Tariff Commission is authorized by section 1313(a) to indicate the heading under which the article is dutiable and the classification of the article upon importation shall be made according to the heading indicated by the Tariff Commission. We therefore believe that the tariff classification made by the Tariff Commission to the effect that the aluminum slats imported by petitioner should be appraised and classified under heading No. 76.03, sub-paragraph "B", with an *ad valorem* duty of 10% is binding upon the Bureau of Customs.

WHEREFORE, the decision appealed from is reversed, and respondent Commissioner of Customs is ordered to refund to petitioner Campos Rueda Corporation the sum of ₱3,411.00, representing excess taxes and duties paid by it on the said importation of 30 crates of aluminum slats.

SO ORDERED.

Quezon City, July 3, 1971.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge