REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

HATIB ABDURASID, ET AL.,
Petitioners,

- versus - C.T.A. CASE NO. 28

COMMISSIONER OF CUSTOMS,
Respondent.

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RESOLUTION

We have before us for resolution a motion to dismiss filed by respondent's counsel on October 27, 1954, on the ground that what has been appealed to this Court by petitioners in their petition for review of October 12, 1954 is an interlocutory order of the Commissioner of Customs and not a final judgment or decision of the latter on the merits of the case.

It appears that the petitioners are the owners of five sail boats (kumpits) which were ordered seized on October 15, 1953 by the Collector of Customs of Jolo together with the merchandise found on board consisting of 181 cases of "Herald" and 9 cases of "Camel" cigarettes and 7 pieces of rattan chairs allegedly for violation of Section 1363 (a) of the Revised Administrative Code and Republic Act No. 426, otherwise known as the Import Control Law.

After the seizure, the Collector of Customs of Jolo, in compliance with the duty imposed upon him by Section 1375 of the Revised Administrative Code, notified in writing the owners of the seized vessels and merchandise of the formal hearing in reference to the delinquency which was the occasion of such seizure which hearing was set on October 28, 1953.

At the scheduled hearing, neither the petitioners nor their counsel appeared. However, one Indasan A. Napii, appeared and claiming himself to be the representative of the petitioners and their counsel requested for postponement of said hearing preferably after December 28, 1953, as evidenced by his letter dated October 28, 1953.

On November 23, 1953, Atty. Juan T. David, formally entered his appearance as counsel for the petitioners and instead of requesting the Collector of Customs of Jolo to set a day for the hearing of the five cases (Jolo Seizure Identification Cases Nos. 38, 39, 40, 41 and 42) on the merits as is his right under Section 1375 of the Revised Administrative Code, filed instead with the Bureau of Customs of Jolo a "Motion to Lift Warrant of Seizure and Detention" on the ground that the seizure in question was made beyond the three (3) marine mile limit of the territorial jurisdiction of the Philippines and therefore illegal.

On February 7, 1954, the Acting Collector of Customs of Jolo denied the said motion in a written order and instead required that the hearing of the five cases in question on the merits be set at a future date where all the questions at issue could be heard and decided.

Counsel for the petitioners instead of abiding by the order of the Acting Collector of Customs of Jolo that a day be set at the convenience of the petitioners for the hearing of the five cases on the merits before the Bureau of Customs of Jolo, appealed the said order of the Acting Collector of Customs of Jolo to the Commissioner of Customs.

On July 26, 1954, the Acting Commissioner of Customs sustained the order of the Acting Collector of Customs of Jolo denying the motion to lift the warrant of seizure and detention in the five cases above-mentioned and ordered the latter to set the formal hearing of the five cases as soon as possible in accordance with law.

On October 14, 1954, counsel for the petitioners filed a petition for review before this Court from this order of the respondent Commissioner of Customs of July 26, 1954 sustaining the order of the Acting Collector of Customs of Jolo of February 17, 1954.

On October 27, 1954, counsel for the respondent filed a motion to dismiss this appeal now pending before this Court on the ground that what has been appealed to this Court is an interlocutory order of the respondent Commissioner of Customs and not a final decision or judgment on the merits of the case. As heretofore stated, this is the motion that we are now called upon to decide.

After hearing the arguments pro and con with respect to the motion, the Court has arrived at the conclusion and so holds that the motion to dismiss of counsel for the respondent is well-taken and should therefore, as is hereby, sustained.

Section 7 of Republic Act No. 1125, confers upon this Court exclusive appellate jurisdiction to review by appeal "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." We take it that what the aforesaid section of Republic Act No. 1125, means by decisions of the Commissioner of Customs which could be appealed to this Court, are judgments or orders rendered by the Commissioner of Customs which are final in nature and not interlocutory orders or judgments which do not dispose of the case completely but leave still something to be done upon the merits as required by law of the Commissioner of Customs or the Collector of Customs concerned. (See section 1375 - 1382 Revised Administrative Code). This view is in conformity with section 2, rule 41 of the Rules of Court. (See also Walter E. Olsen & Co. vs. Olsen 48 Phil. 238, 240). The underlying philosophy behind the rule is to avoid multiplicity of appeals in a single case. As explained by Justice Moran in his Comments on the Rules of Court, Vol. 1, p. 438, 1940 edition, "if each interlocutory order or judgment may be appealed from, and the appeal may stay the progress of the action, there will be numberless appeals in a single case, and the delay in the final disposition of the case will be such that, in many instances, the parties may not survive it". We believe and so hold that there is more reason to apply section 2, rule 41, of the Rules of Court, in all the cases over which this Court was conferred by Republic Act No. 1125 exclusive appellate jurisdiction to review on appeal, considering that the principal purpose for which this Court was created by Congress is to expedite the disposal of tax and customs' cases.

WHEREFORE, finding the motion to dismiss of counsel for the respondent dated October 27, 1954, well-grounded, the same is hereby sustained, and the above-entitled case dismissed without prejudice on the part of the petitioners of interposing another appeal to this Court after all the requisites of sections 1375 to 1382 of the Revised Administrative Code have been complied with, with costs against petitioners.

SO ORDERED.

Manila, November 29, 1954.

AUGUSTO M. LUCIANO
Associate Judge

MARIANO NABLE
Presiding Judge