REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
G.C.

FELICIDAD VIERNEZA,
Petitioner

versus C. T. A. CASE NO. 762

THE COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - x

DECISION

This is an appeal from the decision of the Commissioner of Customs which affirmed that of the Collector of Customs of Cebu ordering the forfeiture of 650 cartons of Chesterfield cigarettes and 110 cartons of Camel cigarettes belonging to the petitioner. The undisputed facts of the case are stated in the decision appealed from, viz.:

> At about 2:00 a.m. on September 16, 1957, the M/V "Legaspi" a coastwise vessel coming from Jolo docked at the port of Cebu on her way to Manila. Acting upon a confidential telegraphic report from an informer in Jolo that the said vessel was carrying a substantial quantity of smuggled foreign cigarettes, the Customs authorities of the port of Cebu conducted a search of the vessel which eventually led to the discovery of eight cases containing SIX HUNDRED FIFTY (650) CARTONS of Chesterfield cigarettes and ONE HUNDRED TEN (110) CARTONS of Camel cigarettes without the required Internal Revenue strip stamps. Upon investigation it was also discovered that the subject merchandise was covered by Bill of Lading No. 24-A (Exh. B) with "personal belongings" as its declaration and correspondingly entered into the manifest of the vessel likewise with "personal belongings" as the noted

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description, and with Sultan Pula of Jolo as the consignor and a certain Carlos Valdez as the consignee in Manila. Upon further investigation, however, it was found that a woman passenger was accompanying the subject merchandise appearing later to be Mrs. Felicidad Vierneza, the present claimant, who all the while holds the bill of lading. It should be noted that when Mrs. Vierneza was questioned during the course of the search she disclaimed under oath (Exh. "H") ownership of the merchandise.

Believing that there is a strong evidence of violations of Customs laws, the Collector of Customs of Cebu seized the merchandise and instituted the forfeiture proceedings for violation of Section 2530 (f), (g) and (m)-4 of the Tariff and Customs Code of the Philippines and Section 174 of the Internal Revenue Code. After complying with the procedural requirements of the law, the Collector of Customs of Cebu conducted a hearing of the case on January 6, 1958 wherein the claimant, through counsel, interposed as part of her defense the issues which are now raised on appeal. Subsequently, or on February 5, 1958, the Collector of Customs of Cebu rendered his decision forfeiting the subject merchandise in favor of the Government for violation of Section 2530 (f), (g) and (m)-4 of the Tariff and Customs Code of the Philippines and Section 174 of the Internal Revenue Code. (Pp. 42-43, Customs records.)

The claimant of the merchandise, petitioner herein, appealed in due time from the decision of the Collector of Customs of Cebu to the Commissioner of Customs who affirmed the decision of the Collector, with the modification that the forfeiture was sustained, among others, under

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paragraph (m-1) of Section 2530 of the Tariff and Customs Code instead of under paragraph (m-4) of the same section. Hence, this appeal.

Petitioner questions the correctness and legality of the decision ordering the forfeiture of the cigarettes in question on the following grounds:

> 1. That the Collector of Customs for the Port of Cebu acted without jurisdiction when he seized the merchandise involved;
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> 2. That Section 2530 of the Tariff and Customs Code has not been violated by the transportation of the articles involved from Jolo with Manila as the intended destination;
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> 3. That the present case does not fall within the scope of Section 2531 of the Tariff and Customs Code; and
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> 4. That articles seized for alleged violation of a particular provision of law cannot be legally forfeited for violation of any other provisions of law.

In support of the contention that the Collector of Customs of Cebu has no jurisdiction to order the seizure and forfeiture of said merchandise, it is alleged -

> (a) That Section 602(b) of the Tariff and Customs Code merely defines the jurisdiction of the Bureau of Customs in general, which is not

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synonimous to the limited jurisdiction of the collector of customs of Cebu over merchandise imported from foreign countries into his collection district;

(b) That Section 603 of the same Code in turn defines the territorial jurisdiction of the entire Bureau of Customs which is not synonimous to the limited jurisdiction of the Collector of Customs of Cebu, as shown further by the fact that Section 703 of the said Code states that: "The Collector shall have the jurisdiction over all matters arising from the enforcement of tariff and customs laws within his collection district;"

(c) The said collector of customs has no jurisdiction to proceed against any merchandise smuggled through any other port like Jolo;

(d) That Section 2203 of the Tariff and Customs Code merely confers authority to the collector of Customs of Cebu to exercise the functions of the Bureau over cases developing in his own district;

(e) That this authority can be exercised by the collector of customs of Cebu whenever the merchandise that enter within his collection district is the subject of hot pursuit and only for the purpose of turning the same over to the collector of the district where the introduction took place, which is not the case of the merchandise herein involved;

(f) That Sections 2203, 2205, 2207, 2208 and 2210 of the same Code have no bearing on, or application to, the question of exclusive jurisdiction of collector of customs of Cebu over merchandise imported within his collection district, whether legally or otherwise; and

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> (g) The cases relied upon on page 7 of the said decision are not applicable, considering the fact that herein petitioner is not the importer, original owner, consignee, or agent of any of them; and there is no allegation and/or evidence to prove that said petitioner had knowledge that the said articles were imported contrary to law.

There is no question that the Collector of Customs of the Port of Cebu has jurisdiction over all cases arising within his collection district, and this includes the power "to inspect, search and examine said vessel or aircraft and any trunk, package, box or envelope on board, and to search any person on board the said vessel or aircraft and to this end to hail and stop such vessel or aircraft if under way, to use all necessary force to compel compliance; and if it shall appear that any breach or violation of the customs and tariff laws of the Philippines has been committed, whereby or in consequence of which such vessels or aircrafts, or the article, or any part thereof, on board of or imported by such vessel or aircraft, is liable to forfeiture, to make seizure of the same or any part thereof." (Sec. 2210, Tariff and Customs Code.) The authority of a collector of a port of entry to order the seizure and forfeiture of merchandise is not limited to merchandise destined for that port. The language of the law is broad enough to cover merchandise imported or attempted to be imported contrary to law while in transit and destined for another port.

In the case at bar, while it may be true that the cigarettes in question were introduced into the Philippines through Jolo, the said cigarettes were not imported in Jolo. Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein and is terminated only upon payment of the duties, taxes and other charges due upon the articles, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs. (See Secs. 1202 and 2202, Tariff and Customs Code.) At the time that said merchandise was at the Port of Cebu, the specific tax thereon had not been paid, or secured to be paid, so that the cigarettes had not yet left the jurisdiction of the Bureau of Customs and the Collector of said port was authorized to have the same seized and forfeited while they were within the jurisdiction of that port. The theory of petitioner that only goods destined for the Port of Cebu, or goods in hot pursuit within the jurisdiction of said port, are subject to seizure and forfeiture by the customs authorities in Cebu would place the Customs

Laws at the mercy of unscrupulous and scheming importers and their cohorts.

The second ground relied upon by petitioner is that Section 2530 (f) of the Tariff and Customs Code has not been violated because cigarettes are not articles of prohibited importation, hence, not subject to forfeiture under said section. It is enough to state that Section 2530 (f) refers not only to articles of prohibited importation but also to articles which are authorized to be imported but which are imported or attempted to be imported in violation of Customs Laws. (See Venancio Carreon Tong Tek v. Comm. of Customs, G. R. No. L-11947, June 30, 1959.)

It is alleged that mere absence of internal revenue strip stamps affixed to the cigarette packages is not a sufficient evidence that the cigarettes were smuggled into the Philippines. This fact, to our mind, is a strong, if not conclusive, evidence that the cigarettes were brought to the Philippines for consumption without any intention of paying the corresponding specific tax; in other words, it is sufficient evidence of an attempt to import the cigarettes in violation of the law, and, therefore, subject to forfeiture under section 2530 (f) of the Tariff and Customs Code.

Finding that the Collector of Customs of Cebu had jurisdiction to order the seizure and forfeiture of said cigarettes and that the forfeiture of the same is in accordance with Section 2530 (f) of the Tariff and Customs Code, we deem it unnecessary to pass upon the other questions raised by petitioner.

The decision appealed from being in order, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, December 26, 1964.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Acting Presiding Judge