REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

LIBERTY MOTORS, INC.,
Petitioner,

- versus -

MANUEL P. MANAHAN, as
Commissioner of Customs,
Respondent.

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

C. T. A. CASE NO. 325

Jan. 22, 1957

1/22/57

RESOLUTION

The petition for review filed by petitioner in this case seeks to recover from respondent the sum of ₱18,621.58 which it paid on August 16, 1956 under Official Receipt No. 27390. The said amount was paid as 17% special import tax on "48 CKD (Completely Knocked Down) Willys jeeps imported from the United States by petitioner and declared under Entry No. 55635 with a total invoice value of $50,568.83 FOB New York," pursuant to Republic Act No. 1394. Respondent has filed a motion to dismiss on the ground that this Court has no jurisdiction over the case.

It appears that the jeeps in question arrived in Manila on July 14, 1956. The Collector of Customs of Manila sought to collect from the importer, petitioner herein, the 17% special import tax, in addition to the customs duty and other charges. Before paying the special import tax, petitioner sought the opinion of the Secretary of Finance allegedly upon suggestion of an official in the office of the Collector

38

of Customs. The Secretary of Finance rendered an opinion which was interpreted by the Collector of Customs as not exempting the said jeeps from the special import tax. Petitioner was therefore required to pay the tax, which, as stated above, was paid on August 16, 1956. In making payment, petitioner apparently made a verbal protest which was noted under "Remarks" in the official receipt thus:

"Remarks:

PAID UNDER PROTEST
HCB
11175
8/16"

As it does not appear that a formal protest was filed against the payment of said tax, no further action on the matter has been taken by the Collector of Customs. It is alleged, however, that Atty. Apolinar V. Vicente, in representation of petitioner, saw the Commissioner of Customs with a letter "appealing from the action imposing and collecting the special import tax in question." According to petitioner, Atty. Vicente was advised to address his letter to the Secretary of Finance, which was done. The Secretary of Finance returned the letter of petitioner to the Commissioner of Customs with his second indorsement of October 11, 1956, wherein it was held that the jeeps in question can not be classified as trucks, and are, therefore, subject to the special import tax. The said second indorsement of October 11, 1956 was embodied in Circular Letter No. 2040 of the Bureau of Customs dated October 17, 1956 addressed "TO ALL COLLECTORS OF CUSTOMS, CHIEFS OF DIVISIONS, MANILA CUSTOMHOUSE AND OTHERS CONCERNED." A copy of the circular letter was allegedly received by petitioner on October 22, 1956, and the herein petition for review was filed on November 6, 1956.

This case involves the liability of petitioner for the special import tax imposed by Republic Act No. 1394. Petitioner paid the tax and is seeking to recover the same. In such case, the law prescribes the procedure in order to entitle the appellant to recovery. Section 1370 of the Administrative Code provides that if a party desires to contest a ruling or decision of the collector of customs, he must first pay the duties, fees or other money charge and thereafter "make protest by presenting to the collector of customs, at the time when payment of the amount claimed to be due the Government is made, or within thirty days thereafter, a written protest setting forth his objections to the ruling or decision in question, together with the reasons therefor." Section 1372 requires that the protest must point out the particular decision or ruling objected to, and must "indicate with reasonable precision the particular ground or grounds upon which the protesting party bases his claim for relief." Protest, according to Section 1371, is the exclusive remedy. If the party adversely affected does not pursue this remedy, "the action of the collector shall be final and conclusive against him, unless the matter be correctible for manifest error in the manner prescribed in section one thousand three hundred hereof." (This case obviously does not involve a matter correctible for manifest error under Section 1300 of the Adm. Code.)

Petitioner herein has not complied with the conditions set forth in Sections 1370 and 1372 of the Administrative Code in regard to the filing of a protest. Therefore, under Section 1371, the action of the Collector of Customs of Manila in collecting the special import tax in question is final and conclusive against it.

> "Granting, arguendo, that . . . petitioner is entitled to a refund of duties, nonetheless we entertain serious doubt as to the right of petitioner to refund because it has failed to follow the procedure provided for in sections 1370-1373, inclusive, of the Revised Administrative Code, which outline the steps required to be observed in pursuing a claim for refund of duties. We believe that unless those steps are taken in accordance with the afore-cited provisions, a refund of duties cannot be made since the procedure outlined therein is an exclusive remedy. (Wan Shung Loong Co. v. Fabros, 58 Phil. 354.)
>
> "The law is very clear and specific that the party who wishes to have the action of the Collector reviewed must first file a protest with such Collector limiting such protest to the 'subject matter of a single adjustment' and indicating 'with reasonable precision the grounds for his claim for refund.' (Section 1372, Revised Administrative Code.) The failure to do so makes the action taken by the Collector final and conclusive . . . (Interisland Express Co. v. Collector of Customs, 27 Phil. 396)." (Plywood Industries, Inc. v. Commis-

27

sioner of Customs, C. T. A. No. 72, November 25, 1955. See also Stonehill Steel Corporation v. Commissioner of Customs, C. T. A. No. 204, May 7, 1956.)

The jurisdiction of this Court to review by appeal customs cases is limited to -

"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." (Sec. 7 [2], Republic Act No. 1125.)

Petitioner in this case has asked us to review a supposed decision of respondent contained in a circular letter dated October 17, 1956. (Pars. 5 and 6, Petition for Review.) The said circular letter is not a decision within the meaning of Section 7 of Republic Act No. 1125. It is, as its title indicates, only a circular letter and it is addressed to officers and employees of the Bureau of Customs for their information and guidance.

Respondent Commissioner of Customs could not have rendered a decision on the case of petitioner as there is no decision of the Collector of Customs of Manila to be reviewed by the Commissioner, and the Collector of Customs of Manila could not have rendered a decision reviewable by the Commissioner because petitioner failed to file a formal protest when it paid the special import tax in question.

It is argued, however, that since the Secretary of Finance rendered a decision on the case by virtue of his power to review, modify or revoke any decision or action of a chief of bureau, office, division or service under his department, pursuant to Section 37 of Act No. 4007 (Reorganization Law of 1932), such decision may be the subject of an appeal to this Court. We do not consider it necessary to pass upon the authority of the Secretary of Finance to review, modify or revoke any decision or action of his subordinate officers under Act No. 4007. The existence of such power does not necessarily give rise to the implication that this Court has jurisdiction to review by appeal the decisions of the Secretary of Finance. The jurisdiction conferred upon this Court by Republic Act No. 1125 cannot be enlarged by implication.

For the foregoing considerations, we are of the opinion that this Court has no jurisdiction to entertain the herein appeal, and, consequently, the same has to be, as it is hereby, dismissed, with costs against petitioner.

SO ORDERED.

Manila, January 22, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

25