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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ATLANTIC, GULF & PACIFIC
COMPANY OF MANILA, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 1513

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

Sept. 4/67

DECISION

This is an appeal from a decision of the Commissioner of Customs dated March 10, 1964, affirming that of the Collector of Customs for the Port of Manila, denying petitioner's claim for refund of the amounts of ₱721.00 and ₱294.00, allegedly overpaid as customs duty and special import tax.

The facts are not in dispute. Petitioner is a corporation duly organized and existing under the laws of the Philippines. It imported 37 bundles of "steel angles", which shipment arrived at the Port of Manila on November 24, 1960 on board the S.S. "Overijsel". The shipment was covered by Bill of Lading No. 9 and declared under Import Entry No. 86525, series of 1960. (Pp. 1 & 61, Customs rec.) In the liquidation of the import entry, the Collector of Customs for the Port of Manila assessed and collected from petitioner the sums of ₱3,622.00 and ₱1,478.00, as customs duty and special import tax. The said amounts were arrived at by the inclusion of the 25% margin fee imposed under Republic Act No. 2609 as an element or part of the tax-base of the imported article in the computation of the customs duty and special import tax. (Par. 3, Pet. for Review; Par. 1, Answer.)

On July 18, 1961, petitioner filed a protest with the Collector of Customs for the Port of Manila, which was docketed as Manila Protest No. 645. In said protest, it requested refund of the sums of ₱721.00 and ₱294.00, representing overpaid customs duty and special import tax, respectively, allegedly due to the erroneous or illegal inclusion of the 25% margin fee in the tax-base of the imported article. (Exh. "G", pp. 20 - 23, Customs rec.)

In a decision dated March 15, 1963, the Collector of Customs dismissed petitioner's protest. (Pp. 58 - 61, Customs rec.) The said decision was appealed to respondent who, on March 10, 1964, affirmed the same. (Pp. 66 - 68, Customs rec.) Hence, the present appeal.

The only issue involved in this case is purely legal, i.e., whether or not the 25% margin fee imposed pursuant to Republic Act No. 2609 should form part of the tax-base in the computation of the customs duty and special import tax on the shipment in question.

The issue before us is not new. This Court, in analogous cases, resolved the issue against petitioner's contention/-

> "x x x For, as regards the petitioner-importer, the inescapable fact is that the true value and price of the imported articles are those appearing in the customs entries and expressed in American dollars, plus the

> margin fee of 25%. The 25% fee is necessarily included in the value and price of the importations because no importation payable in foreign exchange could then be effected without payment thereof." (See Caltex (Phil.) Inc. vs. Actg. Comm. of Customs, CTA Case No. 1490, May 25, 1965; Atlas Consolidated Mining and Development Corp. vs. Comm. of Customs, CTA Case No. 1161, June 4, 1962.)

There being no valid reason to justify a departure from the above-mentioned ruling, we hold that the margin fee was properly considered as forming part of the tax-base in computing the customs duties and special import tax in question.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, September 4, 1967.

R. Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge