Republic of the Philippines
COURT OF TAX APPEALS
Manila

FERMIN SARE,
Petitioner,

- versus - C.T.A. CASE NO. 857

THE COMMISSIONER OF CUSTOMS,
Respondent.

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

D E C I S I O N

This is an appeal from the decision of respondent affirming that of the Collector of Customs of Manila which ordered the forfeiture of various articles imported by petitioner sometime in 1954 and 1955. The facts of the case are stated in the stipulation of facts submitted by the parties, the pertinent portions of which are as follows:

> 2. That the petitioner imported from Hongkong into the Philippines the following, to wit:
>
> (a) Three (3) separate shipments of various merchandise which arrived in Manila on:
>
> (1) December 25, 1954, via the S.S. Kambodia under registration No. 1621 and declared in Entry No. 103972, Series of 1954;
>
> (2) January 14, 1955, via the S. S. Kambodia under Registry No. 54, and declared in Entry No. 4191, Series of 1955;
>
> (3) March 3, 1955 via the S.S. Erria, under Registry No. 238 and declared in Entry No. 78553, Series of 1955.

82

(b) Three (3) separate shipments of various merchandise which arrived at Manila on:

(1) December 11, 1954 via the S.S. Nervar and declared in Entry No. 99510, Series of 1954;

(2) December 18, 1954, via the S.S. Hermod and declared under Entry Nos. 101581 and 101583, Series of 1954;

(3) December 23, 1954, via S.S. Hessenstein, declared in Entry No. 102246-f, Series of 1954.

(c) Three (3) separate shipments of various merchandise which arrived at Manila on or about October 20, 1954, via the S. S. "Talisman" and declared under Entry Nos. 84027, 84028, and 84031.

3. That the above shipments particularly specified in paragraph 2, sub-paragraph a, b and c were all accompanied and covered by their respective Bills of Lading and Commercial Invoices; but all these shipments were not covered by Central Bank Release Certificates as well as Consular Invoices although all duties and Internal Revenue taxes have been paid for;

4. That the shipments above mentioned were the subject of Seizure Identification:

(a) Nos. 2341, 2412, and 2663 for the shipments of various merchandise specified in paragraph 2, sub-paragraph (a);

(b) Nos. 2266, 2304, 2299 and 2319 for the shipments of various merchandise specified in paragraph 2, sub-paragraph (b); and,

(c) Nos. 2081, 2082 and 2089 for the shipments of various merchandise specified in paragraph 2, sub-paragraph (c),

83

instituted by the respondent and or his duly authorized representative for the failure of the petitioner to produce the Central Bank Release Certificates covering the subject shipments above-mentioned as required by Central Bank Circular Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code.

5. That petitioner herein has posted Century Insurance Company Inc. Bond No. 3307 in the sum of ₱18,930.00 in Seizure Identification No. 2663 and Pioneer Insurance & Surety Corporation Bonds Nos. 134, 135, 137, 211, 218, 219, 223, 228, and 245 in the sums of ₱9,934.94, ₱237.87, ₱8,230.76, ₱1,513.00, ₱4,467.00, ₱4,880.00, ₱4,524.00, ₱17,425.00 ₱8,169.00, respectively, in Seizure Identification Nos. 2081, 2082, 2089, 2266, 2299, 2304, 2319, 2341, and 2412, for and in consideration of the release of the merchandise subject of the aforestated forfeiture proceedings;

6. That on:

(a) February 5, 1960, in Seizure Proceedings Nos. 2341, 2412, and 2663, the respondent rendered judgment, the dispositive part of which reads as follows:

> "WHEREFORE, by authority of Section 1380 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, the Pioneer Insurance & Surety Corporation Bond Nos. 228, dated December 28, 1954; 245, dated January 14, 1955; and the Century Insurance Co., Inc. Bond No. 3307, dated March 4, 1955, respectively, which were filed for the release of the articles in question are hereby confiscated; and the principal, F. Sare and Enterprises, as well as the aforesaid sureties are hereby ordered to pay in CASH jointly and severally, the amount of FORTY-FOUR THOUSAND FIVE HUNDRED TWENTY FOUR PESOS (₱44,524.00), Philippine Currency, to the Bureau of Customs within thirty (30) days from re-

ceipt of a copy of this decision in accordance with the terms of the said bond."

(b) February 10, 1960, the respondent rendered judgment in Seizure Proceedings Nos. 2081, 2082, and 2089, the dispositive portion of which reads as follows:

"WHEREFORE, by authority of Section 1380 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, the Pioneer Insurance & Surety Company Bond Nos. 134 in the amount of ₱9,934.94; 135 in the amount of ₱237.87; and 137 in the amount of ₱8,230.76, dated October 21, 22, and 22, 1954, respectively, which were filed for the release of the articles in question are hereby confiscated; and the principal, F. Sare Enterprises, as well as the aforesaid surety are hereby ordered to pay in CASH, jointly and severally, the total amount of EIGHTEEN THOUSAND FOUR HUNDRED THREE PESOS and 57/100 (₱18,403.57), Philippine currency, to the Bureau of Customs within thirty (30) days from receipt of a copy of this decision in accordance with the terms of the said bonds."

(c) February 18, 1960, the respondent rendered judgment in Seizure Proceedings Nos. 2266, 2293, 2304, and 2319, the dispositive part of which reads as follows:

"WHEREFORE, by authority of Section 1380 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, the Pioneer Insurance and Surety Co, Inc. Surety Bonds Nos. 211, 218, 219, and 223, in the respective sums of ONE THOUSAND FIVE HUNDRED AND THIRTEEN PESOS (₱1,513.00); FOUR THOUSAND FOUR HUNDRED SIXTY SEVEN PESOS (₱4,467.00); FORTY-EIGHT HUNDRED EIGHTY

85

PESOS (₱4,880.00); and FORTY-FIVE HUNDRED AND TWENTY-FOUR (₱4,524.00), dated December 13, 21, 21, and 24, 1954, respectively, which had been filed for the release of the articles in question, are hereby confiscated; and the principal, F. SARE ENTERPRISES, as well as the aforesaid Surety are hereby ordered to pay in CASH, jointly and severally, the total amount of FIFTEEN THOUSAND THREE HUNDRED AND EIGHTY-FOUR PESOS (₱15,384.00), Philippine currency, to the Bureau of Customs within thirty (30) days from receipt of a copy of this decision in accordance with the terms and conditions of the said bond." (See pp. 58-61, C.T.A. records.)

There is no question that the goods described above were imported in violation of Circulars Nos. 44 and 45 of the Central Bank and that they are subject to forfeiture under Section 1363(f) of the Administrative Code (now Section 2530(f), Tariff & Customs Code). It is, however, contended that with the promulgation of Central Bank Circular No. 133, all actions and proceedings involving forfeiture of goods for violation of Circulars Nos. 44 and 45 which have not been reduced to final judgment are deemed abrogated.

The question has already been resolved by this Court. We have consistently held that Circulars Nos. 44 and 45 were not repealed by Circular No. 133, and that even if they were repealed, the legality of the forfeiture proceeding under the old circulars is not affected by their subsequent repeal. This is so because the expiration or repeal of said circulars did not have the effect of legalizing an importation of goods which was illegal at the time of importation. (See Litton & Co., Inc. v. Com. of Customs, C.T.A. No. 784, Oct. 30, 1963, and cases cited therein.)

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

SO ORDERED.

Manila, February 24, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

87