REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LGA COMMERCIAL
represented by ZENAIDA ARELLANO,
Petitioner,

- versus - C.T.A. CASE NO. 3627

LCDR GUILLERMO PARAYNO
AND/OR COMMISSIONER RAMON
FAROLAN,
Respondent.

x - x

2/29/88

D E C I S I O N

The case at bar involves the review of respondent' decision ordering the forfeiture of a shipment of ammonium acetate as violative of the Customs law.

It appears that subject importation arrived at the Port of Manila on April 16, 1981, under Bill of Lading No. M025-27895, and consigned to the Claimant LGA Commercial with business address at 617 Meseic Street, Binondo, Manila; that the same was declared under Import Entry and Internal Revenue Declaration No. 28529-81 as "200 Cartons Chemical - 4.8 M/tons (200 Cartons) Ammonium Acetate Solution at $2,038.19

per m/t under TH 29.14 at 10% ad valorem and 10% internal revenue sales tax."

It likewise appears that on the basis of a derogatory information, the Acting Chief, CIID of the Bureau of Customs held the release of the cargo pending verification of the actual contents of the chemical solution; that on laboratory analysis by the National Institute of Science and Technology (NIST) and the National Bureau of Investigation (NBI) the imported article turned out to be Ammonium Mercapto Acetate/Ammonium Thioglycolate, classifiable under TH 29.31 at 10% ad valorem rate of duty and subject to 50% advance sales tax with a 100% mark-up under Section 194(b) of the Tax Code, as amended, resulting in a discrepancy of ₱83,748.00 of collectible import liabilities.

As a consequence, the Acting Chief of the CIID recommended to the Collector of Customs the seizure of subject importation for violation of Section 2530 (f) and (1) - 3,4 & 5 of the Tariff and Customs Code. And, after due hearing (S.I. 441-81) the Collector of Customs found "that subject importation was entered through the Customhouse to the prejudice of the government through misdeclaration and must perforce be forfeited." On appeal by the petitioner, the Commissioner of Customs "finding no cogent reason to disturb the decision of the Collector of Customs of Manila" affirmed the same. (Customs Case No. 83-14, April 11, 1983).

Hence this petition for review.

It does not appear that the petitioner disputes the relatively simple material facts except for the apparent quibble that -

> Respondent has unjustly and despotically seized for more than 2 years the release of the petitioner's cargo marked LGA Commercial consisting of ammonium despite the payment of ₱11,964.00 the duly assessed taxes, regular issuance of delivery permit and gate pass and requests for the release of the cargo as required by law making it ministerial for respondent to effect the release thereof. And, that the withholding of the release of the cargo is tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The question is nothing more than the validity of the order of forfeiture as brought to bear upon the subject importation.

The pertinent statutory provisions read:

> Section 2530. Property Subject to Forfeiture Under Tariff and Customs Law. -
>
> x x x   x x x   x x x

(f) Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former,

x x x

(l) Any article sought to be imported or exported:

x x x

(3) On the strength of a false declaration or affidavit executed by the owner, importer, or consignee concerning the importation of such article;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and

(5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government.

Far be it from a comedy of errors the records make it clear that the subject importation so declared as ammonium acetate, Tariff Heading 29.14 at 10% ad valorem duty and 10% internal revenue sales tax with a 25% mark-up was per NIST and NBI laboratory analysis ammonium mercapto acetate or ammonium thioglycolate classifiable in T.H. 29.31 at 10% ad valorem rate of duty and subject to a 50% advance sales tax with a 100% mark-up under Section 194(b) of the Tax Code. The government could have been bilked of some ₱83,748.70 in collectible revenue which is no niggling picayune to bar forfeiture. Innocuous and innocent as made to appear, the misdeclaration, no less of furtive significance, brooks no exculpation. Such specie of dodging of the mould as the case at bar was not propitious then, it cannot, now. Certainly the law requires no more and expects no less.

Petitioner's attempt to belabor respondent's "unjust and despotic" seizure as "tainted with grave abuse of discretion amounting to lack or excess of jurisdiction" is no reassuring prospect that can easily be reconciled with the statutory intendment. Section 2530 of the Tariff and Customs Code, supra, explicitly directs the forfeiture of the merchandise imported under such circumstances. "To require less would sanction an expedient arrangement unsustainable either by operation of law or application of settled principles. These proscriptions of securing the integrity of the lawful dues are no mere ingenuous sophistries conjured out of some quirky insights but are tinged with strong issues of public policy to prevent fraud upon the revenue lest the cornerstone of effective collection be placed in the quicksand of self-interest." (Samhwa Company. Ltd. vs. Commissioner of Customs, CTA Case No. 3099, July 31, 1981). We are less impressed by what petitioner alleged than what it failed compliance.

WHEREFORE, the petition for review is hereby dismissed with costs against petitioner.

SO ORDERED.

Quezon City, Metro Manila, February 29, 1988.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals