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REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
QUEZON CITY

ARMSTRONG EXPORT,
Petitioner,

- versus -

C.T.A. CASE NO. 3360

HON. RAMON FAROLAN, in his
capacity as Commissioner of
Customs,

Respondent.

x - - - - - x

3/21/83

D E C I S I O N

This refers to a petition to review the order of respondent, Commissioner of Customs, dated June 25, 1981 remanding the case to the office of the Collector of Customs.

It appears that petitioner is a claimant in Seizure Identification No. 71-81, entitled Republic of the Philippines vs. Twelve (12) Containers of Assorted Foodstuffs in 6,750 Cartons. On April 21, 1981 claimant, through counsel, wrote the Collector of Customs manifesting its desire to secure the release of the merchandise in question consisting of twelve (12) containers of foodstuffs under bond.

On April 28, 1981, the Collector of Customs issued an order denying the request of claimant for the release under bond of the above articles.

Subsequently, on May 4, 1981, claimant through counsel, filed a motion for reconsideration of the order of the Collector of Customs

DECISION -
CTA CASE NO. 3360

- 2 -

dated April 28, 1981 on grounds of errors or irregularities committed in the appreciation of the request for release under bond, which motion was denied on May 11, 1981 by the Collector of Customs.

Petitioner thereafter filed a notice of appeal with the Collector of Customs, signifying therefore the intention on its part to elevate the case to the Commissioner of Customs. On May 21, 1981, petitioner filed its petition for review with the Commissioner of Customs.

On June 19, 1981, petitioner filed a "Petition For Resolution of Petition" precipitated apparently by the delay in the making of the resolution by respondent Commissioner of Customs on the petition for review. Consequently, on June 25, 1981, respondent Commissioner, instead of resolving the petition for review, issued an order remanding the case to the office of the Collector of Customs for the purpose of continuing with the hearing on the merits of the case. Hence, this appeal.

The issues to be resolved are, to wit:

- 1) Whether or not this Court acquired jurisdiction over the case;
- 2) Whether or not the provisions of

- 3 -

Section 2301 of the ^Tariff and Customs Code is mandatory, and in the affirmative; and

3) Whether or not petitioner is entitled to the release of the shipment.

"ith respect to the first issue as to whether or not this Court acquired jurisdiction over the case, the appropriate provision of the law applicable in this case is Section 7(2) of Republic Act 1125, which we quote:

SEC. 7. Jurisdiction.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -

xxx

xxx

xxx

(2) 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.

Under the above-quoted provision, it is very clear that this Court has no jurisdiction over the present appeal. What is appealed here is an interlocutory order. An interlocutory order is one which is not final in character and do not involve a decision of the case on its merit. The order of the Collector of Customs denying the release of the shipment to petitioner which was the subject of appeal to the Commissioner of Customs was a mere incident of the pending seizure proceedings in Seizure Proceeding No. 71-81.

DECISION -
CTA CASE NO. 3360

- 4 -

That is precisely the reason why the Commissioner of Customs issued an order remanding the case to the office of the Collector of Customs. Therefore, the order of the Commissioner of Customs is not appealable to this Court.

Having held that this Court has no jurisdiction, we will no longer discuss the last two (2) issues for having become moot and academic.

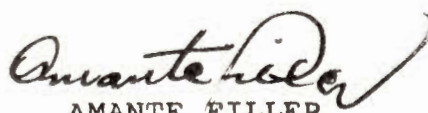
WHEREFORE, the petition for review is hereby DISMISSED.

SO ORDERED.

Quezon City, Metro Manila, March 21, 1983.


CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:


AMANTE FILLER
Presiding Judge


ALEX Z. REYES
Associate Judge