REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

GOLAY-BUCHEL & CIE.,
Petitioner,

- versus -

June 11, 1956

MANILA
CIVIL CASE NO. 22721

COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is a petition seeking the review of the decision on appeal of the respondent Commissioner of Customs in Seizure Identification No. 1149. It was originally filed with the Court of First Instance of Manila and this case was remanded to this Court in pursuance to Section 22 of Republic Act No. 1125 for determination and disposition.

It appears that on January 25, 1952 a shipment, consisting of two hundred twenty (220) packets of marcassite stones, consigned to the Philippine National Bank for the account of C. C. Abella, arrived in the Manila International Airport. The shipment was seized for alleged violation of Republic Act No. 650.

A copy of the notice of seizure hearing was furnished to C. C. Abella. Another copy of said notice was posted on the bulletin board of the Customhouse.

In the seizure hearing, C. C. Abella disclaimed interest in the shipment in question. And in a decision dated Nobember 22, 1952, the Collector of Customs ordered and decreed the forfeiture of the 220 packets of marcassite stones for alleged violation of Republic

Act No. 850. A copy of this decision was likewise furnished to C. C. Abella and another copy was posted on the bulletin board of the Customshouse.

The respondent Commissioner of Customs, no appeal having been made, reviewed the case and in a decision on appeal dated January 12, 1953 affirmed the decision of the Collector of Customs.

In pursuance to Section 8 of Executive Order No. 401-A, the Board of Tax Appeals motu proprio reviewed the decision on appeal and affirmed the same on January 19, 1953.

On April 1, 1953, petitioner Golay-Buchel & Cie. filed a petition with the Board of Tax Appeals praying that the case be remanded to the Collector of Customs for re-investigation and rehearing on the ground that it was not notified of the seizure proceedings. The petition was denied on June 5, 1953. And on June 25, 1953, the Board of Tax Appeals, acting upon petitioner's motion for reconsideration, resolved to suspend the effect of its decision of June 5, 1953 and directed the respondent Commissioner of Customs to order the Collector of Customs for the Port of Manila to reopen the case for the purpose of hearing the evidence and arguments that may be offered or presented by the petitioner or the Philippine National Bank.

In the rehearing, evidence to the effect that there was a mistake in the shipment was presented, and the petitioner offered to reship the 220 packets of marcasite stones in question to the port of origin.

In a decision dated February 4, 1954 rendered after the rehearing, the Collector of Customs affirmed his decision of November 22, 1952.

On February 18, 1954, the petitioner appealed the decision of the Collector of Customs dated February 4, 1954 which was affirmed by the respondent on March 31, 1954.

On April 14, 1954, the petitioner filed a notice of appeal with the respondent pursuant to Sections 1383 and 1384 of the Revised Administrative Code. And on May 18, 1954 it filed its petition for review with the Court of First Instance of Manila.

The questions raised by the parties boil down into two salient issues which are as follows:

> 1. Whether or not this Court has jurisdiction to try the case at bar.
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> 2. Whether or not the 220 packets of marcassite stones in question are subject to forfeiture for alleged violation of Republic Act No. 650.

Relative to the first issue of whether or not this Court has jurisdiction to try this case, the respondent Commissioner of Customs maintains that no appeal from the decision of the Collector of Customs dated November 22, 1952 having been made pursuant to Section 1380 of the Revised Administrative Code, said decision has already become final and executory, and, therefore, this Court lacks jurisdiction to try this case. On the other hand, the petitioner argues that not having been notified of the initial seizure proceedings and of the decision of November 22, 1952, it could not thereby be bound by said decision.

While it is true that no written notice of a desire to have the decision of the Collector of Customs dated November 22, 1952 reviewed by the respondent was filed in pursuance to Section 1380 of the Revised Administrative Code, yet, we believe that said decision had not become final and executory. We note that no one appeared before the Collector of Customs within 10 days after the seizure of the shipment in question to lay claim on the 220 packets of marcassite stones. If no owner or agent appears before the Collector of Customs within 10 days after the seizure of the goods, the said official, after declaring a forfeiture, shall transmit the records of the case to the Commissioner of Customs for appropriate action. Whatever appropriate action the Commissioner may take on the premises constitutes a review of the decision of the Collector of Customs. The Commissioner may affirm, modify or reverse the decision of the Collector. This finds authority and sanction in Section 1381 of the Revised Administrative Code which provides:

> "SEC. 1381. Proceedings in case of property belonging to unknown parties.--If, within ten days after any seizure, no owner or agent can be found or appears before the collector of customs to claim the property, the collector of customs, after fixing the amount of the fine which in his judgment ought to be imposed, or making a declaration of forfeiture, as the case may require, shall forthwith transmit all the papers in the cause to the Commissioner, by whom appropriate action shall be taken in the premises."

The transmittal of the papers of the cause to the Commissioner of Customs and the review by said official of the decision of the Collector of Customs under and by virtue of Section 1381 of the Revised Administrative Code does not necessitate the filing of an appeal.

Section 1380 of the Revised Administrative Code upon which the respondent Commissioner of Customs predicates his contention that the decision of the Collector of Customs dated November 22, 1952 has become final and executory does not apply to the case at bar. It contemplates and presupposes a known owner who was notified of the seizure proceedings and who was aggrieved by the decision of the Collector of Customs.

Now, the decision of the Collector of Customs dated November 22, 1952 having been reviewed by the respondent pursuant to Section 1381 of the Revised Administrative Code, which in turn was reviewed motu proprio by the defunct Board of Tax Appeals, we hold and so rule that the same had not as yet become final and executory. This being so, the corollary fact that the instant case was pending on June 30, 1953, the expiry date of Republic Act No. 650 follows.

With respect to the issue of whether or not the packets of marcassite stones in question are subject to forfeiture for alleged violation of Republic Act No. 650, petitioner Golay-Buchel & Cie. contends that this case, having been pending on June 30, 1953, has abated. To buttress its contention, it cites American cases and the opinion of the Undersecretary of Justice. (Opinion No. 138, Series 1951.) However, the respondent Commissioner of Customs maintains that the decision of the

Collector of Customs having become final and executory before the expiration of Republic Act No. 650, this case has not abated.

We fully concur with the contention of the petitioner that with the expiration of Republic Act No. 650, this case has abated, "because it is well settled that if a statute giving a special remedy is repealed without a saving clause in favor of pending suits, all suits must stop where the repeal finds them" (State of South Carolina v. Peter C. Guillard, 25 L. Ed. 937, 939). We agree with the opinion rendered by the Undersecretary of Justice that all forfeiture proceedings pending on June 30, 1953 involving Republic Act No. 650 abated and quote the opinion hereunder:

> "The Import Control Law expired on June 30, 1953 and there is nothing in the said Act which saves from immediate abatement pending cases for the prosecution of violations of its provisions committed during its effectivity. This is in direct contrast with a contemporary Act, the Price Control Law, Republic Act No. 509, as amended by Republic Act No. 729, wherein the effectivity of the statute is fixed until December 31, 1953 but with the proviso or saving clause that 'prosecutions of offenses committed during the effectivity thereof shall continue and shall not be barred until terminated by conviction or acquittal of the accused.' (Sec. 17) Neither do we have in our statute books any special law or provision which, like Section 13 of the Revised Statutes of the United States, operates as a general saving clause to all legislations or treated as if incorporated in and as a part of all subsequent enactments.
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> "Consequently, in the light of the doctrines pronounced in all the foregoing cases, it is evident that the jurisdiction of the Commissioner of Customs to proceed with the forfeiture of goods and commodities imported in violation of the Import Control Law was lost

and that all proceedings for forfeiture, as well as criminal actions pending on June 30, 1953 abated with the expiration of Republic Act No. 650. This should be understood, however, as without prejudice to whatever liability such goods or the importers thereof may have incurred for possible violations of the customs revenue laws. If the importation of those goods was effected or attempted to be effected not only in contravention of Republic Act No. 650 but also of some other provisions of the customs revenue laws, proceedings for forfeiture may still be prosecuted in accordance with and by virtue of the latter law."

WHEREFORE, the "decision on appeal" of the respondent Commissioner of Customs is hereby reversed. Subject to the condition that the two hundred twenty (220) packets of marcassite stones in question be reshipped by the petitioner to the port of origin under statutory and administrative regulations existing at the time of their reshipment at the port of Manila, we decree their release to the petitioner Golay-Buchel & Cie. Without pronouncement as to costs.

SO ORDERED.

Manila, Philippines, June 11, 1956.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge