REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANDRES LAZARO,
Petitioner,

-versus- C.T.A. CASE No. 1511

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

Petitioner Andres Lazaro has appealed from a decision rendered by the respondent Commissioner of Customs on January 3, 1964, affirming that of the Acting Collector of Customs of Manila in Seizure Identification Nos. 2570, 2618, 2840, 2920, 2930 and 2962, ordering petitioner and his surety to pay, jointly and severally, the aggregate amount of ₱107,592.07, representing the appraised value of various importations which were seized for violation of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363(f) and 1250 of the Revised Administrative Code.

Briefly stated, the facts are as follows: Petitioner is the consignee and claimant of various merchandise and foodstuffs which arrived in Manila from Hongkong on different dates in 1955, to wit:

1. Fourteen (14) packages of dried shrimps which arrived on board the S/S "TRAFALGAR" on February 8, 1955, and declared under Entry No. 12703, series of 1955;

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2. Six hundred (600) bags of green beans which arrived on board the S/S "AEOLUS" on February 17, 1955, and declared under Entry No. 14454, series of 1955;

3. Ninety-six (96) packages of dried small shrimps which arrived on board the S/S "SILVERASH" on April 5, 1955, and declared under Entry No. 30065, series of 1955;

4. Five hundred (500) packages of green beans, forty (40) packages of cuttle fish and twenty (20) packages of lilly flower (dried vegetable) which arrived on board the S/S "AEOLUS" on April 21, 1955, and declared under Entry No. 34613, series of 1955;

5. Twenty-eight (28) packages of dried shrimps which arrived on board the S/S "PRETORIA" on April 25, 1955, and declared under Entry No. 35023, series of 1955; and

6. Sixty-five (65) packages of dried shrimps (small) which arrived on board the S/S "BENVORLICH" on May 1, 1955, and declared under Entry No. 36879, series of 1955. (See Exhs. "A" to "A-6", pp. 27-29, Customs rec.)

The importations were accompanied by the corresponding shipping documents and were assessed for customs duties and taxes which petitioner paid. However, in view of the fact that said importations were not covered by release certificates from the Central Bank or any of its authorized agent banks, they were seized by the Bureau of Customs for violation of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363(f) and 1250 of the Revised

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Administrative Code. Pending the seizure proceedings (Seizure Identification Nos. 2570, 2618, 2840, 2920, 2930 and 2962), the goods were released to petitioner under Surety Bonds Nos. 225, 241, 292, 305, 306, 372 and 323, in the respective sums of ₱3,160.28, ₱30,700.00, ₱4,883.79, ₱29,045.00, ₱30,365.00, ₱3,633.00 and ₱5,805.00, or a total of ₱107,592.07, executed jointly by petitioner and the Philippines International Surety Co., Inc.

On April 7, 1960, after due hearing, the Acting Collector of Customs for the Port of Manila decreed the confiscation of the bonds and ordered petitioner and his surety (Philippines International Surety Co., Inc.) to pay, jointly and severally, the sums covered by the bonds, in the total amount of ₱107,592.07, within thirty (30) days from receipt of notice of the decision. On appeal, this decision was affirmed by the respondent Commissioner of Customs on January 3, 1964.

Petitioner interposed a motion for reconsideration after receipt of respondent's decision but the same was denied by respondent. Hence, this appeal.

The only issue presented for our determination is purely a question of law, viz: whether or not the forfeiture of the questioned importations is valid and legal.

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Petitioner assails the validity of the decree of forfeiture on the grounds that: (1) Central Bank Circular No. 133 has repealed Central Bank Circulars Nos. 44 and 45; (2) Section 6 of Republic Act No. 1410 has repealed Circular No. 45; and (3) the forfeiture proceedings being penal in nature, the repeal of the said circulars has abated and extinguished all the liabilities incurred thereunder.

Factually, the case at bar is on all fours with the recent cases of Andres E. Lazaro vs. The Commissioner of Customs, G.R. Nos.L-22511 & L-22513, dated May 16, 1966, wherein it was held:

> "Petitioner also contends that the merchandise in question cannot be legally forfeited under Central Bank Circulars Nos. 44 and 45 because these circulars have already been repealed by Central Bank Circular 133. This contention is without merit. Central Bank Circular No. 133 has not exactly repealed Central Bank Circulars Nos. 44 and 45 but rather it reenacted them when it provided therein that all existing regulations not inconsistent with the circular are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular No. 133 have a common purpose,- which is to require the presentation of a release certificate from the Central Bank before any importation may be made to the Philippines. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come into the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long-drawn financial crisis in the country.

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"Even assuming that Central Bank Circular No. 133 had the effect of repealing impliedly Central Bank Circulars Nos. 44 and 45, such repeal, however, cannot have the effect of abating the forfeiture case instituted against petitioner for the simple reason that forfeiture proceedings are civil in nature and not criminal. In this sense, the repeal cannot be given any retroactive effect.

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"The alleged implied repeal of Circular No. 45 by Republic Act No. 1410 is without merit for there is nothing in Section 6 of Republic Act No. 1410 which could be construed as having repealed Circular No. 45. But even if we assume that said Act had the effect of impliedly repealing the aforesaid Circular still such repeal cannot also abate the forfeiture case against petitioner for the simple reason that Republic Act No. 1410 cannot be given a retroactive effect so as to defeat any act or transaction effected or undertaken during the life of Circular No. 45. The authority we quoted in the preceding paragraph equally applies to this instance. Indeed, under Article 4 of the new Civil Code, 'Laws shall have no retroactive effect, unless the contrary is provided.' Here there is no such contrary provision." (See also Capulong v. Aseron, G.R. No. L-22989, May 14, 1966; Andres E. Lazaro v. The Comm. of Customs, G.R. Nos. L-21790 & L-21794, Dec. 24, 1965 and authorities cited therein.)

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

SO ORDERED.

Quezon City, March 8, 1967.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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