REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

DIOSDADO RAVARRA, MONIQUE SUNTAY, MICHAEL SUNTAY, CHRISTOPHER BARETTO, ANTONIO DE LA FUENTE, JOSE DE LA FUENTE, GERALD DE LA FUENTE, JOEL MARTINEZ, VICTOR FLORES, LIBERATO VILLEGAS, NEMESIO JARONAS, ANNIE PANLILIO, and EFREN ORDONEZ,

Petitioners,

- versus -

CTA CASE NOS. 5739

NELSON A. TAN, in his capacity as Acting Commissioner of Customs, EMELITO V. VILLARUZ, District Collector of Subic Bay and Hon. RONALDO ZAMORA, in his capacity as the Executive Secretary of the President of the Philippines,

Respondents.

Promulgated:

JUL 20 1999

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R E S O L U T I O N

At bar for resolution is the issue of jurisdiction raised by the Respondents in their "Amended Answer with Motion for Hearing on Affirmative Defense" dated April 21, 1999.

The pertinent facts of the case are as follows:

Herein Petitioners are individual consignees of Fourteen (14) units of various 4x4 motor vehicles that arrived at the Subic Bay Freeport.

Sometime on November 6, 1998 and January 7, 1999, herein respondent, Emelito V. Villaluz, the District Collector of Customs of Subic Bay issued DECREES OF ABANDONMENT (Annexes Q to Q-13) against the aforementioned vehicles, citing as his legal anchor Sections 1801-1802 of the Tariff and Customs Code of the Philippines (TCCP).

The Respondents allege that on October 15, 1998 and November 12, 1998, Collector Villaruz posted at the Bulletin Board of the Customs House, Port of Subic, a "Notice to Claim Importations" (Annex 1 of Amended Answer; docket, p. 61) directing such notice to herein Petitioners. But despite the foregoing notice the importations were not claimed by the Petitioners before the expiration of the 15-day peremptory period prescribed therein. As a consequence, respondent Collector issued the questioned Decrees of Abandonment and declared the imported motor vehicles *ipso facto* the property of the Government by virtue of the mandatory provisions of R.A. 7651.

Petitioners questioned the validity and legality of the aforesaid decrees raising the following points of contention:

1) the issuance of the Decree of Abandonment is unlawful as it does not comply with the due process clause. Mere notice, through posting in the Bulletin board, is insufficient as the required notice is that

which is sent to the addresses of the proper party indicated in the Bill of Lading;

2) Section 1801 and 1802 as amended by R.A. 7651 is not applicable to the case at bar because they have complied with the filing of the respective consumption entries and the payment of the Customs duties as required. And that the only pending issue is with regards to the revocation of the AUTHORITY TO RELEASE IMPORTED GOODS (ATRIGS) which up to the present has not been resolved, which has caused the non-release of the vehicles from the custody.

Furthermore, the Petitioners question the legality of the memorandum issued by the Executive Secretary directing the 4x4 motor vehicles be transferred to Malacañang Palace for safekeeping.

On December 14, 1998, upon knowing of the issuance of the Decree of Abandonment, herein consignees, through their lawyer, filed a Notice of Appeal (Annexes R, R-1, Petition) before the office of the Commissioner. However, in a resolution, dated February 3, 1999, Deputy Commissioner Emma M. Rosqueta affirmed the decrees issued by the District Collector and dismissed the Notice of Appeal for lack of merit (Annex A, *ibid.*). The Acting Commissioner of Customs Nelson A. Tan likewise dismissed the Notice of Appeal for lack of merit in a resolution, dated February 11, 1999, docketed as Customs Case No. 99-002 (Annex 4 of Amended Answer).

After exhausting all administrative remedies, Petitioners filed on March 9, 1999 the instant "Petition for Review with Preliminary Mandatory Injunction and Prayer for Temporary Restraining Order" before this Court.

On April 21, 1999, Respondents filed an "Amended Answer with Motion for Hearing on Affirmative Defenses" (pursuant to Section 6, Rule 16 of the 1997 Rules of Civil Procedure) challenging the jurisdiction of this Court over the appealed case.

The parties were then ordered by this Court to file their respective memoranda within fifteen (15) days from May 1, 1999 in order to resolve the question of jurisdiction. Both parties complied.

Thus, this Court is confronted with the task of resolving first the preliminary issue of "whether or not the Court of Tax Appeals has jurisdiction to take cognizance of the present appeal."

It is clear that the action filed by the Petitioners in this Court is foremost a remedial measure to safeguard their rights over the imported vehicles as well as to maintain the status quo in their favor. It is to be noted that the relief prayed for in the Petition for Review is the adjudgment by this Court of the Decree of Abandonment to be null and void *ab initio* as it violates the due process clause coupled with the provisional remedy of the Issuance of a Writ of Preliminary Injunction against Respondent from proceeding against the Motor Vehicles and the lawful release of the same in their favor and, lastly, the Issuance of a Temporary Restraining Order (TRO) against the Respondents for turning over the said vehicles to Malacañang Palace for safekeeping purposes.

It is very evident from the circumstances obtaining that the subject of the instant Petition for Review is outside the ambit of the CTA's jurisdiction. The Court of Tax Appeals is a court of special and limited jurisdiction, as such it can take cognizance only of such matters as are clearly within its jurisdiction **(Commissioner of Internal Revenue vs. Villa, 22 SCRA 3).** The law creating it, Republic Act 1125, deliberately limits its jurisdiction to cases expressly provided in Section 7 of the said law, to wit:

> "**Section 7. *Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) x x x
>
> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizures, 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; and

(3) x x x"

The principal controversy in the case at bar is the validity and legality of the Decrees of Abandonment issued by the Respondent Collector.

While it is true that what is involved is a customs case involving Section 1801 and 1802 of the TCCP, it does not necessarily follow that the CTA may take cognizance of said case once it is appealed to it. The enumeration cited in the law is exclusive. No one could ever take refuge to the law by merely expanding it. Neither does the case fall within the so called "other matters" as contained in the last part of paragraph 2, Section 7 of R.A. 1125. The interpretation of "other matters" has long been settled by the Supreme Court in a litany of cases decided by it, thus:

> "In defining the cases that maybe reviewed by the CTA, the law begins by enumerating them and then adds a general clause pertaining to the others that may arise under the customs law. This shows that the "other matters" that may come under the general clause should be of the same nature as those that have preceded them applying the rule of construction known as *ejusdem generis*. Otherwise, it should be deemed foreign or extraneous and is not included." **(Ollada vs. CTA, 99 Phil. 605, July 24, 1956; Acting Collector of Customs vs. CTA, 102 Phil. 244, 252 [1957])**

It is not disputed that the case at bar involving the validity of the Decrees of Abandonment is not similar to customs duties, fees or other money charges, seizure, detention, release of property, fines, forfeitures or other penalties; therefore under the terms of the aforequoted section, the present case does not come within the appellate jurisdiction of the CTA.

It follows therefore that if the main or principal action is not within this Court's jurisdiction, then the provisional remedies attached to it should likewise be dismissed. Although the prayer for the preliminary injunction involves the release of the property forfeited in favor of the government, a subject matter falling within Section 7(2) of R.A. 1125, this Court has no power to resolve the issue. As a matter of fact, the petition for the release of the forfeited property in the abandonment case is merely an incident to the principal controversy, which is the legality of the decree of abandonment issued by the respondent Collector of which this Court cannot take cognizance of. As held in the case of **Commissioner vs. Alikpala,** (*ibid.*), nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition or injunction, independently of, and apart from, an appealed case. And if ever there exist the ancillary jurisdiction of the CTA such as the power to issue writs of prohibition and injunction, this power is only ancillary to its appellate jurisdiction **(Collector vs. Yuseco, 35 SCRA 310).**

Thus being so, the prayer for preliminary Mandatory Injunction for the release of the forfeited property and the Temporary Restraining Order to prohibit the Respondents to turn over the said vehicles to Malacañang Palace for safekeeping purpose are ancillary remedies necessarily connected with the principal action. The principal action having fallen outside this Court's jurisdiction, then said ancillary remedies cannot likewise be entertained by this Court.

WHEREFORE, in view of the foregoing, Respondents' Motion to Dismiss is hereby **GRANTED**. Accordingly, the Petition for Review filed on March 9, 1999 is **DISMISSED** on the ground of lack of jurisdiction.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

(Dissenting)
RAMON O. DE VEYRA
Associate Judge

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DISSENTING OPINION

The majority opinion dismissed the Petition for Review for lack of jurisdiction in concurrence with the view of the Respondents that the issue of "abandonment" does not fall under the scope of cases cognizable by this Court, pursuant to Section 7 of Republic Act 1125.

I am constrained to dissent from the majority opinion and believe that this Court has jurisdiction to take cognizance of the Petition for Review.

Respondents begin their argument by laying down the premise that the Tariff and Customs Code of the Philippines (TCCP) does not contain any provision granting this Court the power to review cases involving abandonment of importations.

I disagree with the foregoing contention of Respondents because it is not the TCCP which determines what cases fall under the scope of this Court's jurisdiction but Republic Act 1125, or "An Act Creating the Court of Tax Appeals", specifically Section 7 thereof, which contains the following provision, thus:

> **SEC. 7.** ***Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessment, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> (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; and
>
> (3) Decision of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

Petitioners came to this Court questioning the validity of the decree of abandonment issued by the Collector of Customs and affirmed by the Deputy Commissioner of Customs. To my mind, this case falls squarely under the phrase "other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs". The issue of abandonment of imported goods is specifically mentioned in Sections 1801 and 1802 of the Customs Law or TCCP and there is no reason which I can fathom why this case should be dismissed because of lack of jurisdiction. This Court is, without a doubt, vested with jurisdiction to adjudicate the issues presented in the instant case. The Supreme Court, in the case of **Commissioner of Internal Revenue vs. Court of Appeals, 242 SCRA 289,** even delineated with clarity this Court's jurisdiction when it described the Court of Tax Appeals in this regard:

> "It is a regular court vested with appellate jurisdiction over cases arising under the National Internal Revenue Code, the Tariff and Customs Code and the Assessment Law." (Underscoring supplied)

I do not subscribe to the view that Petitioners do not have the remedy of appeal simply because the TCCP does not provide for any in cases of abandonment. The obvious explanation why the TCCP does not contain any provision for appeal in abandonment cases is because a person or entity who abandons imported goods is presumed to have voluntarily left the goods in Customs custody and is therefore no longer inclined to appeal his act of abandonment, the further implication being, that he is no longer interested in claiming these goods; so that providing for the remedy of appeal would be superfluous. This is not the situation obtaining in the case at bar. Petitioners are vehemently claiming that they did not abandon the imported vehicles. In fact, they are praying for the release of these goods and allege that the respective customs duties have already been paid. This being the primary allegation of Petitioners, then the issue shifts from abandonment to possible unlawful detention or seizure of the goods by the Respondents, an issue which may be properly adjudicated in this Court pursuant to the aforequoted Section 7 of R.A. 1125.

The Court of Tax Appeals was specifically created for the purpose of liberating the regular courts from handling cases involving matters that are within the ambit of the Bureau of Internal Revenue and the Bureau of Customs. To throw out this petition due to lack of jurisdiction is, I believe, taking a very narrow view of this Court's functions, thereby negating the very purpose of its existence.

WHEREFORE, I therefore register my dissent to the majority opinion and vote that this Court has the requisite jurisdiction to take cognizance of the instant Petition for Review.

RAMON O. DE VEYRA
Associate Judge