Technical Staff

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

FRANCISCO PASCUAL,
Petitioner,

- versus -

Sept. 16, 1955

C.T.A. CASE NO. 94

EDILBERTO Y. DAVID, Acting
Commissioner of Customs for the
Port of Manila,
Respondent.

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DECISION

This is an appeal from the decision of respondent Commissioner of Customs, dated February 17, 1955, affirming the order of the Collector of Customs for the Port of Manila in Seizure Identification No. 2085 which declared forfeited in favor of the Government an importation of the petitioner herein.

There is no dispute as to the facts. When the case was called for hearing on Friday, July 1, 1955, the parties submitted it for decision on the pleadings and on the records of the seizure case which were submitted by respondent Commissioner of Customs on March 23, 1955, pursuant to an order of the Court issued on March 11, 1955.

It appears that in 1954, petitioner Francisco Pascual imported from San Francisco, California, 301 cartons of confectionery for which no foreign exchange was required. The shipment arrived in the port of Manila duly covered by all the necessary shipping documents. However, in view of the fact that the petitioner did not present a release certificate from the Central Bank of the Philippines or its duly authorized agent banks, the said importation was ordered seized, and after due hearing, declared forfeited by the Manila Collector of Customs in favor of

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the Government for violation of Central Bank Circulars Nos. 44 and 45 in relation to Sections 1250 and 1363 (f) of the Revised Administrative Code. Inasmuch as the shipment in question was previously released upon petitioner's filing of PISCI Customs Bond No. 137 of the Philippine International Surety Co., Inc., dated October 22, 1954, petitioner Francisco Pascual was ordered to pay in cash the sum of ₱6,925.00, the amount covered by the bond.

Upon appeal made by the petitioner to the Commissioner of Customs, the latter affirmed in toto the decision of the Manila Collector of Customs. Hence, on March 8, 1955, the petitioner filed the instant petition for review.

The only question presented in this case is whether or not the Central Bank of the Philippines, by virtue of Central Bank Circulars Nos. 44 and 45, has the power to regulate imports which do not involve the remittance of dollars or foreign exchange.

The case at bar is substantially on all fours with the case entitled "Estanislao Leuterio versus Commissioner of Customs," C.T.A. Case No. 29, which was decided by this Court on April 18, 1955. In the said case, Presiding Judge Mariano Nable, speaking for the Court, in deciding the same question of law, said:

> "The contention of the respondent that Central Bank Circulars Nos. 44 and 45 were issued pursuant to Republic Act No. 265 in order to govern importations which do not involve the sale of foreign exchange is likewise untenable. We have carefully scrutinized each and every provision of the Central Bank Act, with particular emphasis on the sections cited by the respondent, and we are fully convinced that under its Charter, the Central Bank of the Philippines has no power or authority to issue regulations governing imports which do not involve the sale of foreign exchange.

"We have also examined the explanatory note of House Bill No. 1704 (now Republic Act No. 265) and the Congressional Record of the House of Representatives (Vol. III, Nos. 45 to 55) on the discussion of the Charter of the Central Bank of the Philippines and we have found that there was not the slightest intention on the part of the Congress of the Philippines to authorize the Central bank of the Philippines to issue regulations governing imports which do not require foreign exchange. In fact, 'In normal times, the Bank (Central Bank of the Philippines) will merely keep itself informed of exchange operations of banks, maintain an orderly exchange market, and ensure, that the banks do not speculate in foreign exchange.' (Explanatory Note of House Bill No. 1704, now Republic Act No. 265)"

We have re-examined the charter of the Central Bank of the Philippines and we arrived at the same finding that nowhere and in no wise does the said charter empower the Central Bank to regulate "no-dollar" imports.

To the same effect is the decision of this Court in Estanislao Leuterio vs. The Commissioner of Customs, C.T.A. Case No. 96, September 5, 1955.

WHEREFORE, in view of the foregoing considerations, the decision of respondent Commissioner of Customs is hereby reversed, and the surety bond filed by petitioner Francisco Pascual to secure the release of the merchandise in question is hereby cancelled, without pronouncement as to costs.

SO ORDERED.

Manila, Philippines, September 16, 1955.

ROMAN M. UMALI
Associate Judge

We concur:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

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