REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

ANDRES E. LAZARO,
Petitioner,

-versus- C.T.A. CASE NO. 833

COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - - - x

ANDRES E. LAZARO,
Petitioner,

-versus- C.T.A. CASE NO. 834

COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - - - x

D E C I S I O N

These are appeals from two separate decisions of the Commissioner of Customs in Seizure Identification Nos. 1877, 2003, 2015 and 2016, Series of 1954, declaring the forfeiture of the bonds filed for the release of merchandise imported by petitioner Andres E. Lazaro and ordering the latter and Paramount Surety and Insurance Co., Inc., Century Insurance Co., Inc. and Pioneer Insurance and Surety Corporation to pay in cash to the Bureau of Customs the amounts of the bonds respectively filed by them.

It appears from the records that in 1954, petitioner herein made several importations, consisting of two (2) bundles of fish fins, sixteen (16) packages of various kinds of foodstuffs, sixty one (61) packages of various kinds of foodstuffs, seven (7) packages of candies and five (5) packages of shrimps,

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which are covered by corresponding bills of lading and commercial invoices, but lacked import licenses and release certificates from the Central Bank. As a consequence, the Collector of Customs for the port of Manila decreed the forfeiture of the importations in favor of the Republic of the Philippines for violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code. All estimated duties and taxes were duly paid by petitioner, and the goods were subsequently released under Surety Bond No. 54/4460 of the Paramount Surety and Insurance Co. in the amount of ₱576.40, Surety Bonds Nos. 2950 and 2956 of the Century Insurance Co., Inc. in the respective amounts of ₱6,630.00 and ₱3,900.00, and Surety Bond No. 097 of the Pioneer Insurance and Surety Corporation in the amount of ₱6,941.00.

From the orders of forfeiture of the Collector of Customs for the Port of Manila, petitioner appealed to the Commissioner of Customs who affirmed the same in toto. On May 14, 1960, petitioner filed the instant petitions for review.

After the issues were joined, but before the hearing on the merits, petitioner filed motions to set aside the decisions of the Commissioner of Customs and to dismiss the forfeiture proceedings. Subsequently, however, petitioner, without objection on the

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part of respondent, moved for the joint hearing of the two cases, which latter motion the Court granted. After the parties had identified and offered in evidence their exhibits, they submitted the cases for decision on the pleadings.

Petitioner questions the validity of the seizure and forfeiture proceedings on the premise that Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133.

There is no inconsistency between Circulars Nos. 44 and 133 in so far as the presentation of a release certificate of the Central Bank is concerned. Section 14 of Central Bank Circular No. 44 provides as follows:

> "14. No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any authorized Agent Bank in a form prescribed by the Monetary Board." (See 49 O.G. No. 5 p. 2189.)

This Section has a counterpart in Central Bank Circular No. 133, paragraph 6 of which reads:

> "6. Imports shall be released from the port of entry only upon presentation of a release certificate issued by the Central Bank based on letters of credit opened." (See 58 O.G. No. 5 p. 882.)

Moreover, Circular No. 133 further provides:

> "8. All existing circulars, rules regulations, and conditions governing transactions in foreign exchange not inconsistent with the provision of this Circular, are deemed incorporated hereto and made integral parts hereof by reference." (Paragraph 8.)

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Obviously, Central Bank Circular No. 133, far from repealing the provision of Central Bank Circular No. 44 relative to the requirement of a release certificate, has adopted the same requirement.

Since Central Bank Circular No. 44 has not been repealed by Central Bank Circular No. 133 with respect to the requirement of a release certificate of the Central Bank, it follows that the seizure and forfeiture of the merchandise in question pursuant to the former circular, in relation to Section 1363(f) of the Revised Administrative Code, are in order.

Moreover, even granting <u>arguendo</u> that Central Bank Circular No. 44 has been repealed by Circular No. 133, the validity of the forfeiture under the old circular is not affected by its repeal, the merchandise in question having been imported illegally while it was still in force. The expiration of Central Bank Circular No. 44 did not have the effect of legalizing an importation of goods which was illegal at the time of importation (Golay Buchel and Cie. vs. Commissioner of Customs, G.R. No. L-10994, 11012, December 29, 1959; Leonora Roxas vs. Sayoc, G.R. No. L-6502, November 29, 1956).

Finding no error in the decisions appealed from, the same are hereby affirmed. The petitioner and his sureties are ordered to pay the respondent Commissioner of Customs or his duly authorized representative the total amount of ₱18,047.40 representing the appraised value of the articles in question. With costs against petitioner.

SO ORDERED.

Manila, June 14, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

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