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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BISLIG BAY LUMBER CO., INC.
Petitioner

versus

CTA CASE NO. 1646

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - - - - x

Nov. 3/65

D E C I S I O N

This is an appeal from a decision of the respondent dated April 28, 1965 (Annex "A," Petition) affirming the decision of the Collector of Customs of the port of Tacloban denying petitioner's protests (Tacloban Protest Cases Nos. 1-12) against the collection of ₱7,945.00, as wharfage dues on various exportations of logs. It is asked that respondent be ordered to allow petitioner to credit said amount of ₱7,945.00 against its existing or future tax liability. This case was submitted for decision on the basis of the pleadings of the parties, and the customs record.

Petitioner, a corporation engaged in the business of exporting logs, shipped abroad logs, which it loaded from its own private wharf and on which the total sum of ₱7,945.00 was collected and paid as wharfage dues. Its protests on the collection and payment of wharfage dues having been denied by the Collector of Customs of the port of Tacloban and later by respondent Commissioner, it interposed the present appeal.

The only issue raised is whether or not petitioner is liable for the sum of ₱7,945.00, representing wharfage dues on the logs exported abroad and loaded from its private wharf.

Petitioner anchors the present appeal on the recent decision of the Supreme Court in the case of Aboitiz Shipping Corp. et al., vs. City of Cebu et al., G. R. No. L-14526, March 31, 1965, where it was held that the right to impose wharfage dues rests on ownership. Petitioner argues that "'wharfage dues' is a charge for the use of a wharf" seems now to be judicially established and universally accepted, and that the right to collect rent or fee for such use rests on ownership and belongs to the owner. Accordingly, petitioner concludes, the collection of the wharfage dues in question has no legal justification for the reason that the logs exported were loaded, not from government-owned wharves, but from a private wharf.

The contention is untenable. The issue is not of first impression before this Court. In previous cases involving similar issues (Procter & Gamble Phil., Manufacturing Co. v. Comr. of Customs, CTA Case No. 1303, March 15, 1964; Caltex (Phil.) Inc., v. Actg. Comr. of Customs, CTA Case No. 1322, Sept. 22, 1964; Philippine Iron Mines Inc. v. The Comr. of Customs, CTA Case No. 1270, June 29, 1964; Proc -

ter & Gamble Philippine Manufacturing Corp. v. Comr. of Customs, CTA Case No. 1384, December 29, 1964), this Court has repeatedly upheld the imposition of the wharfage dues provided for in Sections 2801 and 2802 of the Tariff and Customs Code, regardless of the ownership of the wharf where the cargoes were loaded or unloaded. Thus, in the very recent case of this Court, Procter & Gamble Philippine Manufacturing Corp. v. Comr. of Customs, CTA Case No. 1384, *supra*, it was held:

> "With regard to the first issue, petitioner, invoking the decision in the case of Commissioner of Customs vs. Superior Gas & Equipment Co. (G. R. No. L-14115, May 25, 1960), contends that it is not liable to pay wharfage due which is a rent or compensation for the use of a Government wharf as its importations were unloaded on its own wharf and not on Government wharves or facilities.
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> "We have decided several cases in the past involving analogous facts and issues wherein we sustained the legality of the imposition of wharfage dues on imported articles unloaded on private wharves. The decision in the case of Commissioner of Customs vs. Superior Gas & Equipment Co., (Ibid.), invoked by petitioner, is inapplicable to the instant case as the law involved therein is Section 3 of Republic Act No. 1371, a law different from the ones involved herein which are Sections 2801 and 2802 of the Tariff & Customs Code.
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> "In Caltex (Philippines) Inc. vs. Acting Commissioner of Customs, C. T. A. Case No. 1322, dated September 22, 1964, where the petitioner-importer was similarly situated, we held:
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> > 'This issue is not new. In Procter & Gamble Philippine Manufacturing Corporation v. Commissioner of Customs, C. T. A. Case

No. 1303, March 14, 1964, we held:

> "The above-quoted Section 3 of Republic Act No. 1371 was incorporated in the Tariff & Customs Code as Section 2802, but the proviso contained in the former law 'that such wharfage fee shall not be levied on articles imported of brought into the Philippines which are unloaded on private wharves' was eliminated. Obviously, the purpose of Congress in eliminating the said proviso is to impose wharfage dues irrespective of where the unloading of imported goods is made, whether on Government or private wharves. The validity of the imposition of wharfage dues on exported or imported goods loaded or unloaded on private wharf has been recognized."

'Again, in Philippine Iron Mines Inc. v. The Commissioner of Customs, C. T. A. Case No. 1270, June 29, 1964, a case of similar nature, we sustained the legality of the imposition of wharfage dues on imported goods loaded or unloaded on private wharves as follows:

> "It is true that wharfage due ordinarily means a charge by way of rent or compensation for the use of a Government wharf. (The Commissioner of Customs v. Superior Gas & Equipment Co., G. R. No. L-14115, May 25, 1960.) But there is nothing to prevent Congress from imposing wharfage dues for loading or unloading of merchandise on privately owned wharves. (Philippine Sugar Centrals Agency v. Insular Collector of Customs, 51 Phil. 135)
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> "Section 2801 of the Tariff & Customs Code defines wharfage due as the amount assessed against

the cargo of a vessel engaged in foreign trade, based on the quantity, weight or measure received and/or discharged by such vessel, and Section 2802 prescribes the rates of wharfage dues. The law does not limit liability for the payment of wharfage dues to cases where cargo is loaded or unloaded on a Government wharf. Therefore, liability for such dues arises even if cargo is discharged on a private wharf, as in the instant case. (Procter & Gamble Philippine Manufacturing Co. v. Com. of Customs, C. T. A. Case No. 1303, March 15, 1964.) /Caltex (Philippines) Inc. vs. Acting Commissioner of Customs, C.T.A. Case No. 1322, Sept. 22, 1964/"

"However, it is urged upon us by petitioner that Congress, in eliminating the proviso 'That such wharfage fee shall not be levied on articles imported or brought into the Philippines which were unloaded on private wharves' (found in Section 3 of Republic Act No. 1371) from Section 2802 of the Tariff & Customs Code, did not in effect repeal or amend the former law as the congressional purpose in enacting Republic Act No. 1937 (Tariff & Customs Code) was merely to codify all our existing tariff and customs laws. A cursory reading of the explanatory note of the Committee on Ways and Means and the Special Committee to Revise and Codify Tariff-Customs and All Tax Laws, in House Bill No. 5513 (now Republic Act No. 1937), shows that it was not only the intention of Congress to codify all our existing tariff and customs laws, because, among the broad policies and objectives of the enactment, is the aim 'to raise government revenue' (Congressional Record, House of Representatives, Vol. III, No. 13, 3rd Congress, Third Special Session, July 16, 1956, 3264-3266.) It is clear that Congress intended a change or modification in the prior law. This change by Congress was made with the view of increasing the revenue by requiring the payment of wharfage dues on importations unloaded either in Government or private wharves or piers."

The case of Aboitiz Shipping Corporation et al. v. City of Cebu et al., supra, is not in point. The facts and issue involved in the said case are different from those obtaining in the present appeal. Unlike in the present case, which involves the application of the statutory definition of "wharfage dues," found in Section 2801 of the Tariff & Customs Code, in relation to Section 2802 of the same Code, the principal question involved in the Aboitiz case was whether or not, under its City Charter (Commonwealth Act No. 58), the City of Cebu may provide by ordinance for the collection of wharfage from shipping concerns whose vessels dock at the public wharves or piers located in said city, but owned by the National Government.

It may be true that the statutory definition, in Section 2801 of the Tariff & Customs Code, of "wharfage due" may not be in accord with its universally accepted meaning in other jurisdictions. But, nothing can stop Congress from making a definition of its own. And, once made, said statutory definition should be followed in the interpretation of the act to which it relates, and for which it is intended to apply. Said statutory definition supersedes commonly accepted dictionary or judicial definition, and may not be given a meaning in which it is employed in another statute although the two may be in pari materia (50 Am. Jur. pp. 254-255).

And, where the law, as is the case of Sections 2801 and 2802 of the Tariff and Customs Code, has already been construed and interpreted in previous cases and placed in operation for a considerable period of time, said construction is entitled to great respect, as being very probably a true expression of legislative intent and purpose, and is not lightly to be overruled (Molina vs. Rafferty, 38 Phil., 167; citing Cooley on Taxation, Vol. I, 3rd ed., p. 450).

Therefore, in the absence of cogent reasons that will justify a departure, the construction made by this Court on said Sections 2801 and 2802 of the Tariff and Customs Code, in the cases previously decided by this Court, must be followed and reiterated.

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

SO ORDERED.

Quezon City, November 3, 1965.

TEOFILO D. REYES, SR.
Presiding Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge

Associate Judge Alejandro B. Afurong did not take part.