C. P. ANGELES & COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 240

May 16, 1957

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is a petition to review the decision on appeal of respondent Commissioner of Customs, affirming the decision of the Collector of Customs for the Port of Manila and decreeing the forfeiture of three hundred (300) cartons "Hormel Spam" on the ground of alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363 (f) of the Revised Administrative Code.

This case was submitted for decision on the basis of documentary exhibits presented before this Court and on the record of the case before the Bureau of Customs. From the facts established it appears that sometime in December, 1954, there arrived in the Port of Manila on board the S.S. "MONTANA" from San Francisco, California, U.S.A. a shipment, described in the accompanying shipping documents as "canned meat: 600 cartons canned beef". The shipment was declared under Entry No. 98846, (Exhibits "F" and "1")and covered by bill of lading No. 16

(SF-Manila), dated November 12, 1954, of the American President Lines, Ltd. (Exhibits "J" and "7"), commercial invoice, of even date, of the Triad Trading Co. (Exhibit "N"), consular invoice No. 17903, (Exhibit "P"). The entry filed was accompanied by Central Bank release certificate Ref. No. RC-10926, dated November 23, 1954 (Exhibits "K" and "8") which authorized release of the shipment as "600 ctns. Canned Beef", and classified it as "NEC", with an assigned Commodity Code No. 010305. Upon examination thereof by customs authorities, the importation was found to consist of 300 cartons of canned beef and 300 cartons of hormel spam. On the theory that the hormel spam should properly be classified as pork under Commodity Code No. 010304 (UI), the said articles were detained by customs officers under a warrant of detention and seizure. However, pending the seizure proceedings, the importation was released to petitioner upon the filing of MICO Surety Bond No. 7624 issued by the Malayan Insurance Co., Inc. in the amount of ₱12,929.35. After the said proceedings were completed, the Collector of Customs decreed the forfeiture of the 300 cartons of hormel spam for violation of Central Bank Circular No. 44 in relation to Section 1363 (f) of the Revised Administrative Code. Petitioner appealed from said decree of forfeiture which however was affirmed by respondent not only on the ground of alleged violation of Central Bank Circular No. 44 but Central Bank Circular No. 45 as well.

For the proper disposition of this case, it is necessary to resolve the following issues:

1. Whether or not the three hundred (300) cartons of hormel spam in question fall under Commodity Code No. 010305 of the Statistical Classification of Commodities Implementing Circulars Nos. 44 and 45 of the Central Bank; and

2. Whether or not the said shipment is subject to forfeiture under Central Bank Circulars Nos. 44 and 45 in relation to Section 1363 (f) of the Revised Administrative Code.

(The importation of the three hundred (300) cartons of hormel spam was authorized and made under a foreign exchange allocation to import goods, embraced within Commodity Code No. 010305 (NEC) and described as "Beef" of the subdivision: "Meat: in Airtight Containers". On the theory that the shipment in question is pork and not beef, respondent classified the shipment under Commodity Code No. 010304 (UI) of the same subdivision which calls for "Pork". The label of a sample of this importation, Exhibit "2", indicates the following ingredients of hormel spam: "chopped pork shoulder meat with ham meat added and salt, water, sugar, sodium nitrate and flavoring". There is no better evidence of the ingredients of the importation in question than what is recited in the label. The label attests to the fact that hormel spam is mainly pork. Pork is "the flesh of swine, fresh or salted, used for food; specif., salt pork". (Webster's New International

Dictionary, 2 Ed., p. 1922.) Contrarily, beef is "the flesh of an ox or cow, or any bovine animal, when slaughtered for food". (Webster's New International Dictionary, 2 Ed., p. 244.) While pork and beef are meat, the former differs from the latter and falls under a separate commodity code number of the Statistical Classification of Commodities. Consequently, we find that the hormel spam in question properly falls under Commodity Code No. 010304 (UI). It logically follows that the importation of hormel spam (pork) was effected contrary to the foreign exchange license which authorized only the importation of canned beef under Commodity Code No. 010305 (NEC). This fact constitutes a violation of CentralBank Circular No. 44 and the importation in question having been effected contrary to law is subject to forfeiture under the provisions of Section 1363 (f) of the Revised Administrative Code. Incidentally, respondent also ordered its forfeiture under Central Bank Circular No. 45. We find this improper in the premises for the reason that Central Bank Circular No. 45 does not apply to importations which involve the sale of foreign exchange as the case at bar. Moreover, this importation was libelled before and declared forfeited by the Collector of Customs of Manila only for violation of Central Bank Circular No. 44. We believe that respondent on appeal has no power to order the forfeiture on a ground other than that stated in the libel, as the same would constitute a deprivation of the importer's property without due process of law.

In avoidance of the penalty of forfeiture, the petitioner argues that it should not be held responsible for the inclusion of the three hundred (300) cartons of hormel spam in the shipment because said inclusion has been the product of voluntary error on the part of the shipper, Triad Trading Co. Without deciding whether or not the error of the shipper in shipping prohibited merchandise to the importer frees the merchandise from the penal liability of forfeiture, we cannot agree with petitioner's argument. There is no sufficient nor satisfactory showing that the shipper-company committed a voluntary error. If there was really an error, the least that petitioner could have done was to make representations with the Triad Trading Co. regarding the error, which it did not do. Petitioner's letter, Exhibits "I" and "6", advising the Collector of Customs of Manila "that the shipper made a mistake in filling our (Petitioner's) order. x x x " does not justify a finding of error on the part of Triad Trading Co.

WHEREFORE, the decision on appeal of the respondent Commissioner of Customs, ordering the forfeiture of the three hundred (300) cartons of hormel spam for violation of Central Bank Circular No. 44 is hereby affirmed. We decree the forfeiture in favor of the Republic of the Philippines of MICO Surety Bond No. 7624 of the Malayan Insurance Co., Inc. in the amount of ₱12,929.35, which was filed for the release of the importation in question. With costs against the petitioner.

SO ORDERED.

Manila, Philippines, May 16, 1957.

MARIANO NABLE
Presiding Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge

AUGUSTO M. LUCIANO
Associate Judge
(On Leave)