REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LEPANTO CONSOLIDATED MINING
CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3643

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

RESOLUTION

Acting on the Motion To Dismiss filed by petitioner Lepanto Consolidated Mining Company on November 7, 1985 which states:

> 1. In the petition for review filed in this case, petitioner raised the issue whether it is liable to pay customs duty and compensating tax in connection with petitioner's importation of 20 replacement pistons. Petitioner has adopted the view that it is not liable for the duty and the tax.
>
> 2. However, on March 18, 1985, upon motion by petitioner, this Honorable Court issued an order that "the demand to pay anew compensating tax on the 20 replacement or substitute pistons involved in this case, which is one of the items contested in the petition for review of petitioner in this Court, is hereby considered withdrawn or cancelled."
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> 3. The foregoing order of the Court is in consonance with the ruling of Deputy Minister of the Ministry of Finance, Mr. Alfredo Pio de Roda, Jr., contained in his letter dated September 6, 1983 to petitioner. This ruling states as follows:

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> "However, considering that the 20 pistons involved herein are mere replacements, not being an original transaction, the same is exempt from the payment of the tax prescribed under Section 204 of the National Internal Revenue Code, as amended."

4. Thus it clearly appears that petitioner is liable for customs duty on the importation of 20 replacement pistons but is no longer liable for the compensating tax arising from the importation of the same 20 replacement pistons.

5. In view of the foregoing, petitioner is inclined to have the case dismissed now that the only remaining issue is the petitioner's liability to pay customs duty.

WHEREFORE, it is respectfully prayed that this Honorable Court dismiss this case with prejudice.

And there being no objection on the part of respondent Commissioner of Customs, the said motion is hereby GRANTED. Let the above-entitled case be considered closed in the docket of this Court.

SO ORDERED.

Quezon City, Metro Manila, December 20, 1985.

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge

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