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COURT OF TAX APPEALS
QUEZON CITY

July 9, 1966

EUGENIA MANABAT VDA. DE LOPEZ ET AL.,
Petitioners,

- versus - C.T.A. CASE NO. 1463

COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs, dated September 9, 1963, affirming the decision of the Acting Collector of Customs of Manila, dated April 11, 1961, in Seizure Identification Nos. 3211, 3234, 3246, 3250, and 3253, which decreed the forfeiture of the subject importations for violation of Central Bank Circulars Nos. 44 and 45 in relation to Sections 1363(f) and 1250 of the Revised Administrative Code. However, inasmuch as the importations were released to the petitioners during the pendency of this case upon the filing of surety bonds (Surety Bonds Nos. 54934, 54954, 54970, 54975, and 54977, dated June 14, 16, 18, 20 and 21, 1955, respectively) in the total amount of ₱58,505.00, petitioner and her surety were ordered to pay, jointly and severally, the total amount of the undertakings within fifteen (15) days after said decision shall have become final and executory.

This case has been submitted for decision on the following stipulated facts, to wit:

"1. That the shipments covered by Seizure Identification Nos. 3211, 3246, and 3253 arrived at the port of Manila, from Hongkong, on June 13, 1935, on board the S/S "TOREADOR", Reg. No. 691, and were declared in Entry Nos. 53669, 53678, respectively, all series of 1955;

"2. That the shipments covered by Seizure Identification Nos. 3234 and 3250 arrived on June 10, 1955, from Hongkong, via the S/S "TITANIA," Reg. No. 676, and were declared in Entry Nos. 53173 and 53171, both series of 1955;

"3. That the estimated duties and sales tax due on the subject shipments have been duly paid;

"4. That the shipments in question are not covered by release certificates issued by the Central Bank or any of its duly authorized agent banks, for which reason they were ordered seized for alleged violations of Central Bank Circulars Nos. 44 and 45 in relation to Sections 1363(f) and 1250 of the Revised Administrative Code;

"5. That the subject importations were released to claimant under Surety Bond Nos. 54987, 54975, 54970, 54954, and 54934 of the Equitable Insurance and Casualty Company, Inc. dated June 14, June 16, June 18, June 20, and June 21, 1955, respectively, in the respective sums of ONE THOUSAND SEVEN HUNDRED SIXTY-EIGHT PESOS (P1,768.00), NINETEEN THOUSAND ONE HUNDRED EIGHTY-EIGHT PESOS (P19,188.00), TWENTY-FIVE THOUSAND FOUR HUNDRED FIFTY-NINE PESOS (P25,459.-00), FIVE THOUSAND EIGHT HUNDRED TWENTY-SEVEN PESOS (P5,827.00), and SIX THOUSAND TWO HUNDRED SIXTY-THREE PESOS (P6,263.00) or a total of FIFTY-EIGHT THOUSAND FIVE HUNDRED FIVE PESOS (P58,505.00);

"6. That the importations in question involved no dollar remittances."

Petitioner disputed the decision appealed from on the following grounds:

"(a) At the time the importation of subject shipments were made, the Import Control Commission had already been abolished, and

> there was then no agency specifically designated by law to issue such import licenses;
>
> "b) The importation in question involving no dollars, it would be unreasonable to infer that such no-dollar importations were within the broad powers of the Central Bank, under its charter; and
>
> "(c) It would be unfair to hold the bonds of the Equitable Insurance and Casualty Co., Inc., after the lapse of more than six years when the goods released under bond were finally declared subject to confiscation, considering that said goods were perishable in nature, and that actually the government suffered no loss, as all taxes and duties due the government had been paid prior to the release."

Petitioners' contention ultimately boils down to the validity of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363(f) and 1250 of the Revised Administrative Code, upon which the decree of forfeiture of the subject importations was based. It is claimed that the issuance of said Central Bank Circulars Nos. 44 and 45 under the broad grant of powers by Section 74 of Republic Act No. 265, has no sanction in the law. And that, granting arguendo that the Central Bank had authority to regulate imports by implication from its charter, such powers were withdrawn, if not repealed by Section 20 of Republic Act No. 650.

Petitioners' contention is untenable. The issues raised are not of first impression. In previous cases of similar or analogous issues (Pascual v. Comm. of Customs, G.R. No. L-10979, June 30, 1959; Acting Comm. of Customs v. Estanislao Leuterio, G. R. No. L-9142, October 17, 1959; Comm. of Customs v. Serree Investment Co., G. R. No. L-12007, May 16, 1960; Comm. of

Customs v. Eastern Sea Trading, G. R. No. L-14279, October 31, 1961; Comm. of Customs v. Santos, G. R. No. L-11911, March 30, 1962; Comm. of Customs v. Nepumoceno, G. R. No. L-11126, March 31, 1962; and Serree Investment Co., v. Comm. of Customs, G. R. No. L-19564, November 28, 1964), the Supreme Court upheld the validity of said Central Bank Circulars Nos. 44 and 45 under the general grant of authority provided in Section 74 of Republic Act No. 265. In the recent case of Serree Investment Co. vs. Commissioner of Customs, supra, it was held and we quote:

> "The objections of the petitioner, in his assignment of errors, against the validity of Circulars Nos. 44 and 45 of the Central Bank and the authority of the Commissioner of Customs to forfeit the merchandise in question were disposed of in a similar case involving the same petitioner herein. In Commissioner of Customs vs. Serree Investment Company, L-12007, 16 May 1960, this Court, citing the case of Pascual vs. Commissioner of Customs, L-10797, 30 June 1959, stated:
>
> > 'x-x-x Even granting that the importations in question did not require an immediate sale of foreign exchange, their importation into the Philippines from another country will ultimately require the sale of such exchange. The currency of one country is not legal in another. To pay for imports, traders have to avail themselves of foreign exchange, which is the conversion of an amount of money or currency of one country into an equivalent amount of money or currency of another. Every import of goods or merchandise requires an immediate or future demand for foreign exchange.
> >
> > 'Section 74, Republic Act 265, authorizes the Monetary Board, with the approval of the president, to temporarily suspend or restrict sales of exchange and to subject all trans-

> actions in gold and foreign exchange to license during an exchange crisis in order to protect the international reserve and to give the Monetary Board and to give Government time in which to take constructive measures to combat such crisis. Circular No. 44, prohibiting the release by the Commissioner of Customs of any item of import without the presentation of a release certificate issued by the Central Bank or any authorized agent bank in the form prescribed by the Monetary Board, and Circular No. 45, requiring any person or entity who intends to import or receive goods from any foreign country for which no foreign exchange is required or will be required of the banks, to apply for a license from the Monetary Board to authorize such import,' are measures taken to check the unregulated flow of foreign exchange from the country and are within the power of the Monetary Board.'
>
> 'Appellant's contention is that Congress has not authorized the Central Bank to issue regulations governing imports that do not require the sale of foreign exchange, because according to him, it would not have enacted into law Republic Act No. 1410. The contention assumes that the importations do not require the sale of foreign exchange, a fact he failed to establish.'"

The argument that it would be unfair to hold answerable the bonds of the Equitable Insurance and Casualty Co., Inc., after the lapse of more than six years, because the goods were perishable in nature, and that actually the Government suffered no loss as all taxes and duties due were paid, has no basis in law. The terms and conditions of the undertakings (surety bonds) having been voluntarily assumed by petitioner and being perfectly legal and binding must be enforced.

In view of the foregoing considerations, the decision appealed from is hereby affirmed, with costs against the petitioners.

SO ORDERED.

Quezon City, July 9, 1965.

ROMAN M. UMALI
Associate Judge

I CONCUR:

TEOFILO D. REYES, SR.
Presiding Judge