REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PHILIPPINE TEX BOARD FACTORY,
Plaintiff,

- versus -

MANILA CIVIL
CASE NO. 21641

COLLECTOR OF CUSTOMS,
Defendant.

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

November 29, 1956

D E C I S I O N

This is a claim for refund of customs duties alleged to have been erroneously collected by the defendant from the plaintiff.

From the stipulation of facts submitted by the parties and the record of the case, the following facts are established: The plaintiff, Philippine Tex Board Factory, is a corporation organized and existing under the laws of the Philippines and was granted tax exemption under Republic Act No. 35 by the Secretary of Finance on August 20, 1952 (see Exhibit "A"). Subsequently, the plaintiff made payments totalling ₱10,502.90 to the Bureau of Customs as customs duties (see Exhibits B-1, B-2, B-3 and B-4) on importations of various articles and equipments used in its industry. In a letter dated October 12, 1953, plaintiff applied for a refund of the aforesaid amount of ₱10,502.90 (Exhibit C) but the same was denied by the Collector of Customs in a letter dated October 14, 1953 (Exhibit D) except as regards an amount of ₱145.78 for which a conditional refund was allowed. In view of the Collector's denial, plaintiff on January 14, 1954 brought a petition for declaratory relief in the Manila

Court of First Instance. Defendant, Collector of Customs, in answer thereto set up the special defense that an action for declaratory relief does not lie for the recovery of money paid for customs duties.

On November 3, 1954, plaintiff filed a motion praying that the complaint attached therewith be deemed admitted as amendatory to the original petition. The complaint which was admitted by the court seeks the refund of ₱10,502.90 with interest from the date of the effectivity of Republic Act No. 901.

On March 15, 1955, acting upon defendant's motion, the Court of First Instance remanded this case to this Court presumably in pursuance of Section 22 of Republic Act No. 1125. On motion of plaintiff, this Court on January 17, 1956 admitted the amended complaint dated January 13, 1956. In his answer thereto, defendant raised by special defense the jurisdiction of this Court.

This case was submitted on a stipulation of facts referred to above, and raises only questions of law, to wit: (1) Whether or not this Court has jurisdiction to try and decide the instant case; and (2) Whether or not the plaintiff is entitled to the refund of the ₱10,502.90 paid by it as customs duties on the importation of machineries and equipments.

With respect to the first issue, defendant contends that plaintiff not having appealed the decision of the Collector of Customs denying the claim for refund to the Commissioner of Customs in accordance with Section 1380 of the Revised Administrative Code, the Court of First Instance of Manila had no jurisdiction over the suit, and consequently, the Court of Tax Appeals likewise has no jurisdiction over it.

We find this view well taken. The Customs Law (Chapter 39, Revised Administrative Code) clearly delineates and canalizes the procedure to be taken by a taxpayer or importer in customs cases before instituting judicial action against the customs official. By Section 1380 of the Code, "the party aggrieved by the decision of the collector of customs in any matter presented upon protest x x x may, within fifteen days after notification in writing by the collector of his action or decision, give written notice to the collector signifying his desire to have the matter reviewed by the Commissioner" who shall "approve, modify, or revise the action of his subordinate." From the decision of the Commissioner, the party aggrieved thereby, may, pursuant to section 1383 of the same Code "procure the cause to be removed for review into the Court of First Instance sitting in the City of Manila, in the manner and within the period hereinafter prescribed". These procedural steps must be followed by the importer to enable the Court of First Instance (prior to the approval of Republic Act No. 1125) to acquire and assume jurisdiction over cases involving disputed assessment of customs duties.

In the case at bar, it palpably appears that from the decision of the Collector of Customs of Manila, the plaintiff instituted its action with the Court of First Instance without following the procedure outlined above including the taking of an intermediate appeal to the Commissioner of Customs. This omission on the part of plaintiff is fatal to its case. Thus it has been held that [in a situation as this, the exclusive remedy of an importer is to "appeal from the ruling of such customs officer (Collector of Customs) to the Insular Collector of Customs (now Commissioner of Customs) and to the Court of First Instance of Manila in the manner and within the period prescribed by the applicable provisions of the Administrative Code"] (Man Shung Loong Co. vs. Fabros, 58 Phil. 354). Plaintiff should have prosecuted to conclusion the administrative remedies as set forth in Sections 1370, 1371, 1380 and 1383 of the Revised Administrative Code. The remedies therein being exclusive, only when the Commissioner of Customs has rendered a decision on appeal upon the action or decision of the Collector of Customs may an aggrieved party resort to court action. Where, as in this case, the person aggrieved by the decision of the Collector does not make a timely appeal to the Commissioner of Customs, the decision of the Collector evidently becomes final and conclusive, not only as to the aggrieved party but against the government as well (Section 1371, Revised Administrative Code; Sy Man vs. Jacinto and Fabros, G. R. No. L-5612, October 31, 1953). There being no appeal by plaintiff from the decision of the Collector of Customs of Manila to the Commissioner of Customs, the latter could not have rendered a decision pursuant to section 1380 of the Revised Administrative Code which is appealable to the Court of First Instance of Manila pursuant to section 1383 of the same Code. Thus, neither that court nor the Court of Tax Appeals acting under sections 7 and 22, of Republic Act No. 1125, has jurisdiction to entertain the present complaint for the refund of custom duties (see S. Ombra Amilbangsa vs. Angangco, C.T.A. Case No. 225, May 7, 1956; Central Steel Mfg. Co., Inc. vs. Collector of Customs, (C.T.A.) Q.C. Civil Case No. 2720, November 29, 1955; Sampaguita Shoe & Slipper Factory vs. Commissioner of Customs, C.T.A. No. 59, October 17, 1955).

Finding as we do hold that this Court is without jurisdiction to pass upon the present case, we find it unnecessary to discuss the second issue.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the complaint should be as it is hereby dismissed with costs to plaintiff.

SO ORDERED.

Manila, November 29, 1956.

MARIANO NABLE
Presiding Judge

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DECISION-
MANILA CIVIL CASE
NO. 21641



CONCUR:

AUGUSTO M. LUCIANO ,
Associate Judge

ROMAN M. UMALI
Associate Judge