CHAN KIAN, doing business
under the name and style
SHANGHAI TING TING SOY
FACTORY,
Petitioner,

\- versus -

C.T.A.
CASE NO. 319

THE COMMISSIONER OF CUSTOMS,
Respondent.

1/4/57

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R E S O L U T I O N

This is a "Motion to Dismiss" filed by respondent for lack of jurisdiction over the subject matter hereof.

On the basis of the evidence preliminarily established in connection with this incident, it appears that on October 24, 1953, petitioner Chan Kian, received (p. 22, Customs Records) a copy of the decision of the Collector of Customs for the Port of Manila, dated September 19, 1955 (Annex "C", Petition for Review; pp. 23-24, Customs Records), ordering and decreeing the forfeiture of the merchandise consigned to petitioner covered by Seizure Identification Nos. 1428, 1462, 1463 and 1584. On November 19, 1955, petitioner filed a "Notice of Appeal" from the aforesaid decision to the Commissioner of Customs. While the appeal was at first denied, on reconsideration, the same was given due course on March 19, 1956 by the Collector of

Customs (p. 15, Customs Records) who presumably must have transmitted the corresponding records to respondent Commissioner of Customs. However, the Commissioner of Customs, in an order dated June 21, 1956 (Annex "B", petition for review; pp. 11-13, Customs Records) denied petitioner's motion to have the case on appeal set for hearing. Petitioner sought a reconsideration of the said order, but the motion was denied in an order dated July 14, 1956 copy of which was received by petitioner on August 25, 1956 (pp. 1-5, Customs Records). Petitioner then interposed the instant appeal.

The motion to dismiss is premised on the theory that the decision of the Collector of Customs dated September 19, 1955 had already become final and executory, or otherwise unappealable, inasmuch as no appeal from said decision had been taken within the fifteen-day period prescribed by section 1380 of the Revised Administrative Code. This is the same reason advanced in the decision appealed from.

We find this view well taken. Pursuant to section 1380 of the Revised Administrative Code, the person aggrieved by the action or decision of the Collector of Customs in a seizure case may appeal the same to the Commissioner of Customs within fifteen (15) days from notice thereof. The failure of petitioner to interpose a seasonable appeal renders the Collector's decision final and conclusive and therefore, beyond the jurisdiction of the Commissioner of Customs or of this Court to review, revise or modify.

> "In conclusion, we find and hold that under the present law governing the Bureau of Customs, the decision of the Collector of Customs in a seizure case if not protested and appealed by the importer to the Commissioner of Customs on time, becomes final not only as to him, but against the Government as well, and neither the Commissioner nor the Department Head has the power to review, revise, or modify such unappealed decision." (Sy Man vs. Jacinto & Fabros, G.R. No. L-5612, October 31, 1955, underscoring supplied).

The defense of petitioner that he acted under ignorance or misconception of the provisions of law in regard to the time within which to appeal, is we believe, without merit. Suffice it to mention here the time-honored principle "ignorantia legis neminem excusat". As additional defense, petitioner further argues that he acted upon the belief that the thirty (30) day period within which payment under the bond was to be made, as stated in the last sentence of the decision of the Collector of Customs, was the time within which an appeal was authorized. We do not believe the said statement to be misleading as to imply a period within which an appeal may be raised. However, granting arguendo the that same was misleading, "no statement or opinion of any administrative officer can have the effect of nullifying the clear and explicit provisions of the law, which in this case is section 1380 of the Revised

Administrative Code" (Sampaguita Shoe and Slipper Factory v. Commissioner, C.T.A. Case No. 59, October 17, 1955).

IN VIEW OF THE FOREGOING, we find the "Motion to Dismiss" well-founded and the same is hereby granted. For lack of jurisdiction, the "Petition for Review" filed by petitioner on September 22, 1956, should be, as it is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Manila, January 4, 1957.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge