REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PAPER INDUSTRIES CORPORATION
OF THE PHILIPPINES (PICOP),
Appellant,

- versus - C.T.A. CASE NO. 3092

RAMON J. FAROLAN,
Appellee.
x - - - - - - - - - - - - - - x

PAPER INDUSTRIES CORPORATION
OF THE PHILIPPINES (PICOP),
Appellant,

- versus - C.T.A. CASE NO. 3126

RAMON J. FAROLAN,
Appellee.
x - - - - - - - - - - - - - - x

PAPER INDUSTRIES CORPORATION
OF THE PHILIPPINES (PICOP),
Appellant,

- versus - C.T.A. CASE NO. 3130

RAMON J. FAROLAN,
Appellee.
x - - - - - - - - - - - - - - x

1/29/82

D E C I S I O N

Paper Industries Corporation of the Philippines (PICOP), appellant (petitioner) in these three cases, poses a single issue before us: Whether the dutiable value of an imported article subject to an <u>ad valorem</u>

rate of duty should be based on the home consumption value or price as reflected in the consular or commercial invoice or the published home consumption value as established and indicated in the pertinent customs import valuation and classification circular (CIVCC) of the Bureau of Customs. Paper Industries Corporation of the Philippines (PICOP for short) contends that the dutiable value of the imported article for purposes of the assessment and collection of customs duty should be based on the home consumption value as declared in the consular and commercial invoices while the Commissioner of Customs asserts that it should be based on the published home consumption value as established and indicated in the customs import valuation and classification circular of the Bureau of Customs.

PICOP is a corporation duly organized and existing under the laws of the Philippines with principal offices at 6th Floor, JMT Building, Ayala Avenue, Makati, Metro Manila.

Reproduced below are the undisputed findings of facts in the decisions appealed from:

CTA CASE NO. 3092

This is an appeal from the decision dated September 26, 1978 of the Collector of Customs of the Port of Bislig, Surigao del Sur, on the protest filed by PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES (PICOP) against the assessment and collection of customs duties and taxes based on published home consumption value on appellant's importation of sodium sulphate anhydrous.

Subject shipment consisting of 750 bags of sodium sulphate anhydrous arrived at the Port of Bislig on October 8, 1976 from Tokuyama, Japan, aboard the M/S "Eastern Clipper" consigned to PICOP. Import Entry No. 1506-76 was filed on November 2, 1976, supported by the following documents: (1) Bill of Lading No. TCBI-1 dated September 26, 1976, (2) Consular Invoice No. KBO 84933 dated September 26, (3) Packing List dated August 31, and (4) Central Bank Release Certificate No. 76/5647 dated October 31, 1976.

The entered value of subject shipment was $88.76 per metric ton pursuant to the value indicated in its covering consular and commercial invoices. However, the Collector assessed the same at $149.60 per metric ton in accordance with the published HCV for such kind of articles per CIVCC No. 270-76 dated July 1, 1976, and accordingly required PICOP to pay the sum of ₱86,573.00 in customs duties and taxes. PICOP paid the said amount on March 29, 1978 under O.R. No. 3310774 and filed a formal protest the following day.

CTA CASE NO. 3126

This is an appeal from the decision dated September 19, 1978, of the Collector of Customs, Port of Bislig, Surigao del Sur, dismissing the protest dated June 6, 1978, of the PAPER INDUSTRIES CORPORATION OF THE

PHILIPPINES (PICOP, for short) against the assessment and collection of customs duty and tax based on published home consumption value instead of on the wholesale home consumption value declared in the consular and commercial invoices.

The record of the case shows that in April, 1978, PICOP imported from Tauranga, New Zealand, 8,544 bales (2,136 MT) of kinleith unbleached kraft pulp for use as component material in its manufacture of kraft paper and newsprint. Said importation was shipped on board the vessel "NEDLLYED FREETOWN", arriving in Bislig on April 28, 1978. On May 11, 1978, Entry No. B-448-78 was filed therefor together with the necessary supporting documents and entered the same at $229.983 per air dry metric ton. The shipment was however, assessed at $247.00 per metric ton based on the published home consumption value thereof for which PICOP was required to pay ₱804,791.00 in customs duty and tax on May 25, 1978 per O.R. No. 9076007. Formal protest was filed on June 6, decided on September 19 and from which this appeal was taken on October 4, 1978.

CTA CASE NO. 3130

These are appeals from the decisions of the Collector of Customs of Bislig, Surigao del Sur, both dated August 28, 1979, which, owing to the similarity in the kind and volume of the importations and the issues and parties involved, the same are herein being consolidated in a single decision for the sake of convenience.

It appears on record that the PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES (PICOP, for short), on two separate occasions, imported from Japan, 600 metric tons per importation of sodium sulphate anhydrous, 98% min. pulp grade, to be used in its manufacture of kraft paper and newsprint.

I. CUSTOMS CASE NO. 79-39 (Bislig Protest No. 9-79).- In May, 1979, PICOP imported from Nissho-Iwai Co., Ltd. of Tokyo, 600 flexible container bags (600 metric tons) of sodium sulphate anhydrous, 98% min.

pulp grade, loading same at Tachibana, Japan on board the "UNIQUE MARINER" and arriving at Bislig on June 13, 1979. On June 26, 1979, PICOP filed Import Entry No. B-588-79 covering said cargo together with the necessary supporting documents. Subject shipment was entered at $19.687 per metric ton based on its consular and commercial invoices. However, it was assessed by the Customs Appraiser thereat at $79.00/MT pursuant to the revised home consumption value thereof published under CIVCC No. 270-76 dated July 1, 1976, as revised by Revision Order No. 12 dated Dec. 1, 1978. Consequently, PICOP was required to pay the amount of ₱71,843.34 in customs duty and tax per O.R. No. 764720 dated July 26, 1979. A formal protest was filed by PICOP on July 31, 1979.

II. CUSTOMS CASE NO. 79-38 (Bislig Protest No. 10-79).- In June, 1979, PICOP again imported from the afore-cited company 600 flexible container bags (600 MT) of sodium sulphate anhydrous, same grade, and shipped on board the "CATTLEYA ACE", arriving at Bislig on July 2, 1979. PICOP accordingly filed therefor Import Entry No. B-648-79 also with the required supporting documents. Subject shipment was entered at $18.829 per metric ton based on its accompanying consular and commercial invoices. However, the same was assessed at $79.00 per metric ton based on the home consumption value thereof published under CIVCC No. 270-76 as revised by Revision Order No. 12, dated Dec. 1, 1978, and consequently required PICOP to pay the amount of ₱71,629.00 in customs duty and tax per O.R. No. 7640718 dated July 24, 1979. Formal protest was filed on July 31, 1979.

The Collector of Customs of Bislig, Surigao del Sur, dismissed the protests filed by PICOP in the above cases. So did appellee (respondent) Commissioner of Customs. Hence the present recourse.

Inasmuch as these three appeals raise the same and common question of law, in accordance with the manifestation and motion of appellant (petitioner) dated November 28, 1980, they are consolidated in this Decision.

There is no controversy between the parties as to the computation of the amounts of customs duties claimed by appellant (petitioner) as refundable. The only question presented for the resolution of the Court is whether, under the provisions of Section 201 of the Tariff and Customs Code, as amended, the correct home consumption value of the respective subject imported articles, which should be the basis of the assessment and collection of customs duties due thereon, is the value or price declared in the commercial and consular invoices or the value or price established and published by the Bureau of Customs in Customs Import Valuation & Classification Circular (CIVCC) No. 270-76 dated July 1, 1976. Section 201 of the Tariff and Customs Code textually reads as follows:

> SEC. 201. Basis of Dutiable Value.- The dutiable value of an imported article subject to an ad valorem rate of duty shall be based on the home consumption value or price (excluding internal excise taxes) of same, like or similar articles,

as bought and sold or offered for sale freely in the usual wholesale quantities in the ordinary course of trade, in the principal markets of the country from where exported on the date of exportation to the Philippines, or where there is none on such date, then on the home consumption value or price nearest to the date of exportation including the value of all containers, coverings and/or packings of any kind and all other costs, charges and expenses incident to placing the article in a condition ready for shipment to the Philippines, plus ten (10) per cent of such home consumption value or price.

The home consumption value or price under this section shall be the value or price declared in the consular, commercial, trade or sales invoice. Where there exists a reasonable doubt as to the value or price of the imported article declared in the entry, the correct dutiable value of the article shall be ascertained from the reports of the Revenue Attache or Commercial Attache (Foreign Trade Promotion Attache), pursuant to Republic Act Numbered Fifty-four hundred and sixty-six or other Philippine diplomatic officers and from such other information that may be available to the Bureau of Customs.

From the data thus gathered, the Commissioner of Customs shall ascertain and establish the home consumption values of articles exported to the Philippines and shall publish such lists of values from time to time.

When the dutiable value provided for in the preceding paragraphs cannot be ascertained for failure of the importer to produce the documents mentioned in the second paragraph, or where there exists a reasonable doubt as to dutiable

> value of the imported article declared in the entry, it shall be the domestic wholesale selling price of such or similar article in Manila or other principal markets in the Philippines on the date the duty becomes payable on the article under appraisement, in the usual wholesale quantities and in the ordinary course of trade, minus --
>
> (a) Twenty (20) per cent thereof for expenses and profits; and
>
> (b) Duties and taxes paid thereon.

It is clear from the provisions of Section 201 that the home consumption value of the imported article shall be the value or price declared in the commercial, consular, trade or sales invoice. However, the same provisions state that where there exists a reasonable doubt as to the correctness of the value or price declared in the entry, the correct dutiable value of the article shall be ascertained from the reports of the Revenue Attache or Commercial Attache or other Philippine diplomatic officers and from such other information that may be available to the Bureau of Customs. And from the data thus gathered, the Commissioner of Customs shall ascertain and establish the home consumption values of articles exported to the Philippines and shall publish such lists of values from time to time. (National Dental Supply, Inc., vs. The Commissioner of Customs, CTA Case No. 1616, June 29, 1979, certiorari denied in G.R. No. 51236, dated January 18, 1980; Procter & Gamble Philippine Manufacturing Corporation vs. Commissioner of Customs, CTA Case No. 2788, February 27, 1981.)

In other words, while the law prescribes the rule that the home consumption value of the imported article shall be the value or price declared in the commercial, consular, trade or sales invoice, the same should not be applied in case the correctness of such value or price declared in the invoice is vitiated by reasonable doubt. And what should then be considered as the correct home consumption value, in such case, should be the value or price ascertained by the Bureau of Customs from the reports of the Revenue Attache or Commercial Attache or other Philippine diplomatic officers, and which value has been established and published by said Bureau from time to time. (National Dental Supply, Inc. vs. The Commissioner of Customs, CTA Case No. 2816, June 29, 1979; certiorari denied in G.R. No. 51236, January 18, 1980; Procter & Gamble Philippine Manufacturing Corporation vs. Commissioner of Customs, CTA Case No. 2788, February 27, 1981.)

Here, in the instant cases, which were in effect submitted for decision based on the pleadings, including the annexes thereof after the parties have marked and presented them as their respective exhibits, and the records of the Bureau of Customs bearing on these proceedings, it is not disputed that the customs duties were assessed and collected based on the <u>published</u> home consumption values of the imported articles as contained in Customs Import Valuation and Classification Circular (CIVCC) No. 270-76 dated July 1, 1976 of the Bureau of Customs. As alleged by appellant (petitioner) in all its appeals (petitions for review) to this Court (par. 5 in CTA Case No. 3092; par. 6 in CTA Case No. 3126; par. 14 in CTA Case No. 3130) and admitted by appellee (respondent) in his Answers, the Collector of Customs assessed the customs duties due on the subject shipments based on the <u>published</u> home consumption values thereof as contained in Customs Import Valuation and Classification Circular (CIVCC) No. 270-76 dated July 1, 1976. The said Customs Import Valuation and Classification Circular No. 270-76 dated July 1, 1976, publishing the list of home consumption values and tariff classifications of articles exported to the Philippines from different countries was issued, as expressly stated therein, by the Commissioner of Customs pursuant to the provisions of Section 201 in relation to Section 602-a of the Tariff and Customs Code of the Philippines, as amended. (Exh. "1", pp. 33-34, CTA Case No. 3092; pp. 64-65, CTA Case No. 3126.) And the published home consumption values (HCV) under CIVCC No. 270-76 of the imported articles mentioned therein had been ascertained by the Commissioner of Customs, according to appellee (respondent), from the reports submitted by the Revenue Attache, Commercial Attache and Customs Attache. (See pp. 29-30, CTA Case No. 3092 records; pp. 48-49, CTA Case No. 3126 records; pp. 57-58, CTA Case No. 3130 records.) The customs authorities had to apply the published home consumption values under CIVCC No. 270-76 dated July 1, 1976, in view of the fact that the entered values of the subject shipments reflected in the consular and commercial invoices presented by appellant (petitioner) were very much lower than the published home consumption values ascertained and established by the Commissioner of Customs pursuant to Section 201, *supra*, thereby clearly creating a reasonable doubt as to the true home consumption values or prices of the imported articles. (pp. 28-29, CTA Case No. 3092 records.) As contended by appellee (respondent), the published home consumption values strike the most reasonable values of the imported merchandise being the average values of several transactions in a particular place. (pp. 51-52, CTA Case No. 3126 records; p. 60, CTA Case No. 3130 records.)

It appearing that appellee (respondent) Commissioner of Customs had reasonable doubt as to the values or prices of the subject imported articles declared in the entries, and the published home consumption values strike him as the most reasonable values, there seems no basis therefore for an assertion that the customs authorities erred in relying upon the published home consumption values of the imported shipments as contained in Customs Import Valuation and Classification Circular (CIVCC) No. 270-76 dated July 1, 1976, which published home consumption values had been ascertained and established by the Commissioner of Customs from the reports submitted by the Revenue Attache, Commercial Attache and Customs Attache;

instead of the home consumption values declared in the consular and commercial invoices.

The law is clear and specific. It merely calls for application as thus worded."The home consumption value or price under this section shall be the value or price declared in the consular, commercial, trade or sales invoice." However, "Where there exists a reasonable doubt as to the value or price of the imported article declared in the entry, the correct dutiable value of the article shall be ascertained from the reports of the Revenue Attache or Commercial Attache (Foreign Trade Promotion Attache), pursuant to Republic Act Numbered Fifty-four hundred and sixty-six or other Philippine diplomatic officers and from such other information that may be available to the Bureau of Customs." "From the data thus gathered, the Commissioner of Customs shall ascertain and establish the home consumption values of articles exported to the Philippines and shall publish such lists of values from time to time." To the extent that the customs authorities adhere literally to such applicable legal provisions, the decisions appealed from cannot be assailed as erroneous. There being fidelity to what are required by the legal provisions, what was done by appellee (respondent) could not therefore be successfully challenged as improper and illegal.

It is hardly necessary to add that if the customs authorities were always bound by the invoice value, it is evident that they would be, to a considerable extent, at the mercy of foreign merchants and importers. (Lim Quim vs. Collector of Customs, 23 Phil. 509 /1912/; The Coca-Cola Export Corporation vs. The Commissioner of Internal Revenue and the Collector of Customs, Manila, L-23604, March 15, 1974, 56 SCRA 5.) The value of imported articles as fixed by the customs authorities in the discharge of their function of assessing and collecting the lawful revenues justly due on imported articles and confirmed by the customs commissioner is presumed to be correct and therefore conclusive in the absence of fraud or illegality or of an affirmative showing by the protesting importer that the customs authorities in fixing or assessing the value of the importation proceeded upon a wrong principle and contrary to law. The burden thus rests upon the importer disputing the customs valuation not only to prove the contrary and overcome the presumption of correctness of the valuation but also to show that the figures declared by him are in fact true and correct. (Te Chin Boo vs. Collector of Customs, 32 Phil. 76 /1915/; Coca-Cola Export Corporation vs. Commissioner of Internal Revenue & Collector of Customs, <u>supra</u>.) In the instant cases, herein appellant (petitioner) failed to discharge such burden. Where, as here, there was full and unconditional compliance with the wordings of the law applicable, and there being no allegation of illegality committed by or fraud on the part of the customs authorities, the presumption of correctness of the dutiable values of the subject imported articles becomes conclusive upon appellant (petitioner).

Wise & Company, Inc. vs. Commissioner of Customs, CTA Case No. 2717, December 29, 1977; and NCR Corporation (Phil.) vs. Commissioner of Customs, CTA Case No. 2599, February 28, 1978, cited by appellant (petitioner) are not in point. As clearly explained therein, this Court could not disregard the home consumption values of the imported articles involved in said cases as indicated and declared in their consular and commercial invoices because there were no <u>published</u> home consumption values of the imported articles ascertained and established by the Commissioner of Customs from the reports of the Revenue Attache or Commercial Attache (Foreign Trade Promotion Attache) or other Philippine diplomatic officers, as required by law. Neither was there a showing of the existence of a reasonable doubt as to the values or prices of the imported merchandise declared in the entries in order that the home consumption values stated in the consular or commercial invoices could be disregarded. In other words, since there was an absence of an affirmative showing of the existence of published home consumption values of the imported articles therein, ascertained and established by the Commissioner of Customs from reports of revenue attache, commercial attache or trade attache, and there existed no reasonable doubt as to the values or prices of the imported articles declared in the entries, the Court ruled that was no justification for disregarding the home consumption values indicated and declared in the consular and commercial invoices.

The appealed decisions must therefore stand. No error could be imputed against appellee's (respondent's) judgments sustaining for lack of merit the dismissal by the Collector of Customs of the Port of Bislig, Surigao del Sur, of the protests filed by appellant (petitioner) Paper Industries Corporation of the Philippines (PICOP) against the assessment and collection of customs duties based on the published home consumption values of the imported articles involved in these appeals as contained in Customs Import Valuation and Classification Circular (CIVCC) No. 270-76 dated July 1, 1976, issued by the Commissioner of Customs in accordance with the requirements of the law applicable.

WHEREFORE, finding no merit in these appeals (petitions for review), the appealed decisions are hereby affirmed in these three cases, with costs against appellant (petitioner) in all instances.

SO ORDERED.

Quezon City, Metro Manila, January 29, 1982.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge