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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

June 26, 1963

PHILIPPINES INTERNATIONAL
SURETY CO., INC.,
Petitioner,

-versus- C.T.A. CASE No. 770

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

D E C I S I O N

This is an appeal by petitioner Philippines International Surety Co., Inc., the surety of Pablo Gonzales, from the decision of the Commissioner of Customs dated February 25, 1960 ordering petitioner and Pablo Gonzales to pay, jointly and severally, the total amount of ₱53,434.05.

Pablo Gonzales is the claimant of various merchandise described in Seizure Identification Nos. 3436, 3585, 3623 and 3764, to wit:

"900 bundles of various merchandise
"6 cases toothbrushes
"12 cases toothbrushes
"1,000 packages of various merchandise"

which arrived in four (4) shipments at the Port of Manila in June, 1955, July 21, 1955, July 25, 1955 and August, 1955 on board the "S.S. Bronnxville," "S.S. Trafalgar," "S.S. India" and "S.S. Sunnyville," respectively. These importations were not covered by release certificates issued by the Central Bank or any of its agent banks. Consequently, seizure proceedings were instituted, but during their pendency, the merchandise were ordered released to the claimant under bonds (Exhs. A-14, 9, A-15, 8, A-16, 7, A-18 and 6, pp. 73, 64, 91, 66, 103, 68, 115 and 112 Customs rec., respectively).

After hearing, the Acting Collector of Customs for the Port of Manila ordered their forfeiture for having been imported in violation of Central Bank Circulars Nos. 44 and 45. As it appears that the shipments were released under bonds issued by the Philippines International Surety Co., Inc. (petitioner herein), the claimant and the Philippines International Surety Co., Inc. were ordered to pay, jointly and severally, the full amount of the surety bonds filed (PISCI Bonds Nos. 443, 506, 511 and 555) in the total amount of ₱53,434.05 in cash (Exhs. A-9 & 11, pp. 45-47 Customs rec.). Notices of said decision were served upon the claimant and the Philippines International Surety Co., Inc. (pp. 43-44, Customs rec.). The claimant appealed to the Commissioner of Customs who affirmed the decision of the Acting Collector of Customs declaring the aforesaid bonds forfeited in favor of the Government and ordering the principal-claimant Pablo Gonzales and the surety, the Philippines International Surety Co., Inc. to pay, jointly and severally, the aforesaid amount of ₱53,434.05 (Exhs. A-5 and 12, pp. 36-38, Customs rec.). Copies of said decision were furnished to the claimant and the Philippines International Surety Co., Inc. on February 26 and 27, 1960, respectively. The petitioner's motion for reconsideration of the decision of respondent having been denied, petitioner filed, on April 8, 1960, the instant appeal.

The parties raised two (2) issues, to wit:

1. Whether or not petitioner has the legal personality or capacity to institute the instant appeal; and

2. Whether or not the confiscation of the bonds filed in the seizure proceedings is lawful.

With respect to the first issue, petitioner contends that it has personality to sue in this Court. On the other hand, respondent averred that petitioner, being a mere surety which can proceed against its principal in a proper action, has no personality to appeal from the decision of the Commissioner of Customs as it is not a person adversely affected by the decision appealed from contemplated under Section 11 of Republic Act No. 1125.

On this issue, we have ruled in several cases in which these same parties were involved and which were decided adversely against the petitioner, that a surety has no legal capacity to appeal to this Court (Phil.

Int'l. Surety v. Commissioner of Customs, CTA Case No. 760, May 31, 1963, citing Phil. Int'l. Surety Co., Inc. v. Commissioner of Customs, CTA Case No. 745, Resolution, Jan. 12, 1961; Phil. Int'l. Surety Co., Inc. v. Commissioner of Customs, CTA Case No. 736, Resolution, Dec. 3, 1962; Phil. Int'l. Surety Co., Inc. v. Commissioner of Customs, CTA Case No. 771, Jan. 4, 1963). We see no compelling reason to reverse our aforementioned ruling in this case.

Granting arguendo that petitioner can appeal, petitioner's contention with regard to the second issue, that the confiscation of the bonds is illegal on the grounds that the seizures were predicated upon the alleged unlawful application of Circulars Nos. 44 and 45 as they were enacted without presidential approval and in violation of the provisions of Republic Act No. 1410, otherwise known as the No-Dollar Import Law, is without merit. The Supreme Court, in two (2) cases (Pascual v. Commissioner of Customs, G.R. No. L-10979, June 30, 1959; Commissioner of Customs v. Pascual, G.R. No. L-9836, Nov. 18, 1959), upheld the validity of Circulars Nos. 44 and 45.

WHEREFORE, the petition for review filed in the above-entitled case is hereby dismissed with costs against petitioner.

SO ORDERED.

Manila, June 26, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge