REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

VIRGINIA DE LEON-TONGSON,
Petitioner,

versus C.T.A. CASE NO. 1609

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

June 30/69

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs which affirmed that of the Collector of Customs of the Manila International Airport decreeing the seizure and forfeiture of thirty-six (36) pieces of jewelry and five hundred twenty-two (522) pieces of diamonds for violation of Sections 2505 and 2530 (m-2 and 5) of the Tariff and Customs Code.

On June 8, 1963, petitioner arrived at the Manila International Airport (MIA) aboard a Philippine Air Lines plane from Hongkong. Upon arrival, she was required to fill up a "Baggage Declaration Entry" form wherein she declared that she had with her two (2) bags or valises and described the articles entered as "personal", without indicating their cost or value. (P. 17, Customs rec.) After the two pieces of baggage were examined by Amalia Cacile, Customs Examiner, petitioner was approached by Socorro de Guzman, Customs Secret Service Agent, who asked her if she was carrying any jewelry or valuable articles with her and she replied in the negative. Thereupon, petitioner was invited to the ladies' room for physical search. Inside the ladies' room she admitted that she had in her possession pieces of jewelry, and she took out from a pocket of her panty two (2) small cloth bags secured with safety-pins. The two small cloth bags were found to contain thirty-six (36) pieces of jewelry and five hundred twenty-two (522) pieces of diamonds. In view of the circumstances under which the articles of jewelry were imported and entered, the Collector of Customs of the MIA instituted the corresponding seizure proceedings for violation of Sections 2505 and 2530 (m-2 and 5) of the Tariff and Customs Code (MIA S.I. No. 472). After hearing, the Collector of Customs, on September 12, 1963, decreed the forfeiture of the articles in favor of the Government. Not satisfied with the decision, petitioner appealed to respondent who, on October 14, 1964, affirmed the decision of the Collector of Customs. Hence, the present appeal.

In the meantime, the Government filed a criminal complaint against petitioner in the Court of First Instance of Pasay City, docketed as Criminal Case No. 6101-P, for attempting to evade the payment of lawful duties and taxes on the articles in question, penalized by Section 3602 of the Tariff and Customs Code. On April 28, 1969, the court found petitioner not guilty of the charge and dismissed the complaint. (See pp. 38-49, CTA rec.)

During the hearing of this case on May 13, 1969, the parties agreed to submit the case on the basis of the pleadings and customs records, without further memorandum.

The forfeiture of the articles in question was ordered by virtue of Sections 2505 and 2530 (m-2 and 5) of the Tariff and Customs Code.

Jewelry and precious stones carried by incoming passengers are not "baggage" within the conceptual definition of that term. However, American jurisprudence categorizes these articles as baggage under the American customs laws. (U.S. v. One Pearl Necklace, et al., 105 Fed. 357; U.S. v. One Pearl Necklace, et al., 111 Fed. 164; One Pearl Chain v. U.S., 123 Fed., 371; U.S. v. 218¼ Carats Loose Emeralds, 153 Fed. 643.) And since our Tariff and Customs Code is an adaptation from American customs laws, the interpretative jurisprudence obtaining in the United States on jewelry and precious stones as baggage is persuasive in our jurisdiction. Consequently, we take it that jewelry and precious stones carried by persons arriving in the Philippines are baggage which should be declared as enjoined by Section 2505 of the Tariff and Customs Code.)

(Concededly, the jewelry and diamond stones in question were not included in the Baggage Declaration & Entry made and signed by petitioner. The non-inclusion or omission to declare was compounded by the denial of petitioner, upon inquiry from Customs Secret Service Agent Socorro de Guzman, that she was carrying jewelry upon her arrival at the Airport. This denial was maintained until she yielded the two bundles of jewelry and diamond stones in the ladies' room where she was invited for a physical search. These bundles were extracted by her from an improvised pocket of her panty. All these circumstances abundantly demonstrate the fraud attending petitioner's failure to mention or declare said dutiable articles, for which their seizure is justified under Section 2505 of the Tariff and Customs Code.

(The second cause of forfeiture is, in substance, the failure of petitioner to mention the jewelry and diamond stones to a customs official. /Sec. 2530 (m-2) Tariff and Customs Code./ (In this connection, it appears that petitioner not only chose to remain silent regarding the existence in her person of the articles in question, but positively denied bringing them when she was asked by the Customs Secret Service Agent. The fact that petitioner subsequently disclosed and yielded them to the Customs Secret Service Agent and the Supervising Appraiser in the ladies' room where she was invited for a physical search is not a proper and seasonable declaration or mention of the jewelry and diamond stones to customs officials. The inevitability of the physical search and their consequent finding in the person of petitioner left her no other alternative than to admit their existence and to surrender them to the customs authorities. To nod in agreement to the contention advanced on behalf of the petitioner that the disclosure of the articles in the ladies' room after the initial denial of their existence by petitioner is a proper and seasonable declaration or mention to the customs officials would embolden smugglers and the like minded people to brazenly deny carrying undeclared dutiable articles until finally cornered into admitting such fact. Consequently, we find that the jewelry and diamond stones in question are subject to forfeiture under Section 2530 (m-2) of the Tariff and Customs Code.)

(Finally, the forfeiture of the jewelry and diamond stones is being justified for having been imported through any other fraudulent device by means of which such article was entered through a customhouse to the prejudice of the Government. (Sec. 2530 (m-5) Tariff and Customs Code.) (The bundles containing the articles in question were admittedly carried in a pocket improvised in petitioner's panty at the time they were yielded to the customs authorities. The improvised pocket of petitioner's panty is undoubtedly a fraudulent device by means of which the jewelry and diamond stones were entered through the customhouse to the prejudice of the Government, and, coupled with her denial of the existence of such articles when questioned for the first time, justifies forfeiture of the articles under the provisions of Section 2530 (m-5) of the Tariff and Customs Code.)

(The fact that petitioner was acquitted in the criminal case filed against her in connection with the importation of said articles does not affect the liability of said articles for forfeiture.)

WHEREFORE, the decision appealed from is hereby affirmed with costs against petitioner.

SO ORDERED.

Quezon City, June 30, 1969.

R M Umali
ROMAN M. UMALI
Presiding Judge

I concur:

Ramon L Avanceña
RAMON L. AVANCEÑA
Associate Judge

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