REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

SERREE INVESTMENT COMPANY.,
Petitioner,

-versus-

CTA CASE NO. 227

Jan 5/57

COMMISSIONER OF CUSTOMS,
Respondent.

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

D E C I S I O N

Petitioner is the importer of various shipments of merchandise from abroad which were ordered forfeited by the Collector of Customs of Manila in Seizure Identification Nos. 1650, 2263, 1917, 1964, 2383, 1908, 2044, 2049, 2069, 2113, 2114, 2309, 2916, 3016 and 3238. All the decisions of the Collector of Customs in these cases were appealed to respondent Commissioner of Customs, who rendered a decision only in Seizure Identification No. 2044. No decision has as yet been rendered by respondent in the other cases.

In its original petition for review filed on January 3, 1956, petitioner sought the dismissal of all the seizure cases. However, in its third amended petition for review, petitioner confined its appeal to the decision of respondent in Seizure Identification No. 2044 which involves the seizure of five (5) cases of ham.

There is no dispute as to the facts of this case. The aforesaid five (5) cases of ham were shipped to petitioner by Tai Fong Hong, of 82 Des

Vouex Rd. W., Hongkong, and arrived at Manila on board the S. S. Pasadena on October 8, 1954. The said shipment is covered by "pertinent shipping documents like the Bill of Lading No. M-9 dated at Hongkong, 5th October, 1954 covering FIVE (5) CASES FOODSTUFFS; and also the Official Receipt No. 56599, dated October 11, 1954, covering the payment of estimated customs duties in the amount of THREE HUNDRED FORTY-SIX PESOS AND THIRTY-ONE CENTAVOS; Official Receipt No. 56683, dated October 11, 1954, covering additional customs duties and sales tax in the amount of SIX PESOS (₱6.00) and Official Receipt No. 56818, dated October 12, 1954, in the amount of FIVE PESOS AND THIRTY -THREE CENTAVOS (₱5.33) covering the payment of additional duties and additional sales tax." (Page 1, Decision on Appeal of Respondent.)

The said shipment was released to the importer upon the filing of surety bond No. 14 of the Pioneer Insurance and Surety Corporation, dated October 11, 1954, for the sum of ₱3,478.00.

Petitioner claims that the five cases of ham were imported without any dollar remittance, and their forfeiture is, therefore, illegal. That the said importation does not involve dollar remittance is admitted in the decision of the Collector of Customs of Manila dated July 6, 1955, pertinent portion of which reads as follows:

> "Considering the fact that there is nothing in the records of the case at bar tending to show that the subject ship-

> ment is duly covered by a bank release cértificate and license from the Central Bank or any authorized agent bank as required by Central Bank Circular Nos. 44 and 45, respectively, for <u>all importations involving no-dollar remittance similar to the one under consideration herein</u>, this Office finds that the importation of the subject shipment was a clear violation of the two aforesaid Circulars and considering further that Circular Nos. 44 and 45 are considered as part of 'Customs law' pursuant to second paragraph of Section 1419 of the Revised Administrative Code, this Office is of the opinion and so holds that the importation in question assumes the category of an importation effected contrary to law and, therefore, subject to forfeiture under Section 1363 (f) of the Revised Administrative Code." (Pp. 1-2, Decision of the Collector of Customs; underscoring supplied.)

Respondent does not dispute the fact that the importation in question does not involve dollar remittance. He merely stated that -

> "This Office has consistently held in a long line of decisions that, before the enactment of Republic Act No. 1410, Central Bank Circulars Nos. 44 and 45 were applicable to all importations not falling under the exceptions therein enumerated, whether such importations were with dollar remittance or not." (Pp. 2-3, Decision on Appeal of Respondent.)

We have already held that Central Bank Circulars Nos. 44 and 45, insofar as they sought to regulate importations involving no-dollar remittance, are void. Accordingly, articles imported from abr... involving no-dollar remittance can not be legall... forfeited under Section 1363 (f) of the Administra... tive Code for violation of said circulars. (Lueteric... v. Commissioner of Customs, C.T.A. No. 29, April 18... 1955; Nepomuceno v. Commissioner of Customs, C.T.... No. 122, July 26, 1956; Auyong Hian v. Commissio...

of Customs, C.T.A. No. 219, October 31, 1956; Brillo v. Commissioner of Customs, C.T.A. No. 176, November 14, 1956; Santos v.Commissioner of Customs, C.T.A. No. 235, December 22, 1956.)

WHEREFORE, the decision appealed from is reversed, and the surety bond filed by petitioner in the sum of ₱3,478.00 is hereby cancelled. Without pronouncement as to costs.

SO ORDERED.

Manila, January 5, 1957.

(Sgd.) ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

This decision reversed by the S.C.
in G.R. L - 12007; prom: MAY 16, 1960.