REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

ROBERTO ROBLES, OPERATOR/OWNER OF MOTOR TANKER M/T ALICE, AND MODESTO RUBIBIS, CARGO OWNER OF SLUDGE BUNKER OIL,
Petitioners,

- versus -

C. T. A. CASE NO. 4354

THE COMMISSIONER OF THE BUREAU OF CUSTOMS,
Respondent.

Promulgated:
FEB 03 1995

x - x

D E C I S I O N

This is a petition for review with preliminary injunction of a decision of respondent Commissioner of Customs in seizure case identification no. 3-87 (North Harbor) captioned Republic of the Philippines versus Motor Tanker (MT) with CPR No. IGGD-78-0226 and her cargo of undetermined volume of bunker oil, Roberto Robles, owner/operator, Customs Case No. 89-07 (S.I. No. 3-87, North Harbor).

As stated in the caption of the petition, petitioner Roberto Robles is the owner/operator of the Motor Tanker M/T "Alice" and Modesto Rubibis is the cargo owner of the sludge bunker oil.

As may be gleaned from the petition for review the M/T "Alice" was the vessel used to convey the "discharged bunker oil" from a foreign vessel, the SS "Benington". It alleged in the petition that the cargo in question was "awarded" by the engineer of the SS "Benington" to a certain Jose Ribas based on a certification dated November 27, 1987 with a handwritten note at the bottom thereof of a certain official of the Bureau of Customs whose signature is not clear (Annexes A & A-1 of the Petition). The certification with the corresponding handwritten note reads:

> "From: SS Benington
> Port of Manila November 27, 1987
>
> To whom it may concern:
>
> This is to certify that, that the Chief of Eng. of the SS BENINGTON has awarded 50 M/T sludge oil waste to Mr. Jose Ribas.
>
> This sludge oil HAS BEEN GIVEN TO HIM, as payment for his services personally, using him as driver on ship personal business, and no money involved, for this slop waste sludge.
>
> This certification is issued in connection to request permit of Mr. Jose Ribas to discharge said oil for proper record purposes, freeing vessel from any liability or any barge permit or payment.
>
> (Sgd.) CAPT. MARO R. GENTINE
> Master SS BENINGTON V-06
> Port of Manila

To Inspector on Board,

You may allow discharge subject to continuous underguarding until released by proper authorities.

Printed Name & Signature"
illegible

Another "documentary evidence" relied upon to effect the discharge and transportation of the cargo by the M/T "Alice" was a certification handwritten by Gristo S. Tijam, Special Assistant for Administration, Bureau of Customs in his official stationery dated November 24, 1987 (Annex G-2, Petition), as follows:

"To whom this may concern:

This is to certify that the Chief Eng. of the SS "Benington" was awarded 50 M/T sludge oil waste to ABRD-Aniceto Bertiz.

This sludge has been given to him as payment for his service personally using him as driver on ship personal business and no money involved for this slop waste sludge."

The M/T Alice with its cargo of oil was apprehended by government agents at the foot of the Del Pan Bridge along the Pasig River before the cargo could be unloaded and transferred to truck vans awaiting it.

On December 18, 1987, a warrant of seizure and detention in North Harbor Seizure Identification No. 3-87 was issued by Godofredo F. Ursal, Acting Collector of Customs, for violation of Section 2530 (a), (c), (d) and (1-1) of the Tariff and Customs Code.

During the hearing of said seizure case, claimant for the bunker oil, Modesto Rubibis, proposed a settlement of the seizure case in accordance with Section 2307 of the Tariff and Customs Code to be a good purchaser in good faith from Messrs. Aniceto Bertiz and Jose Ribes which proposal was favorably recommended by Customs Collector Ursal (Annex F, Petition.)

This offer to settle under E.O. 38 was denied by the Commissioner of Customs in a resolution dated November 11, 1988 (Annex D, Petition). The case was returned to Customs Collector Ursal for final resolution.

The District Collector of Customs (MICP) in his decision dated November 17, 1988 ordered the forfeiture of the Motor Tanker M/T "Alice" and her cargo of 184,062 liters of bunker oil for violation of Sections 2530 (a), (c), (d) and (1-1) of the Tariff and Customs Code.

The Commissioner of Customs decision of March 2, 1989 in Customs Case No. 89-07 (S.I. No. 3-87, North Harbor) affirmed the decision of the Collector, ordering the forfeiture of the Motor Tanker M/T "Alice" and her cargo to be disposed of in the manner as provided by law.

In Answer to the instant Petition for Review, respondent Commissioner narrated the facts and circumstances of the case in the administrative level and anchored his defense in two major points, that is: the Commissioner of Customs did not err in not approving the settlement of the seizure in question; and the Commissioner of Customs did not err in affirming the decision of the forfeiture. On the first ground, it is contended that under Section 2307 of the Tariff and Customs Code, the Commissioner is not bound by the recommendation of the district collector. The recommendation of the district collector for approval of petitioner's motion to settle merely to expedite the termination of the seizure case was unacceptable to the Commissioner. It is further stated that withdrawal of the bunker oil from the foreign vessel was illegal since it did not follow proper customs procedures. Furthermore, the customs official who allegedly gave the clearance for its unloading was not legally authorized to do so. There is likewise a *prima facie* evidence of fraud as the oil declared as sludge oil waste was not so. The owner of M/T "Alice" in a sworn statement stated that said vessel was carrying bunker oil and waste oil. There was no formal entry or official declaration filed as required by customs law and regulation.

On the second ground, the bunker oil in question and the M/T "Alice" are liable to forfeiture by virtue of Section 2530 (a), (c), (d), and (1-1) of the Tariff and Customs Code which provides:

> "SEC. 2530. Property Subject to Forfeiture Under Tariff and Customs Law. -- Any vehicle, vessel or aircraft, cargo, article and other objects shall, under the following conditions be subject to forfeiture:
>
> a. Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles or in conveying and/or transporting contraband or smuggled articles in commercial quantities into or from any Philippine port or place. xxx
>
> xxx xxx xxx
>
> c. Any vessel or aircraft into which shall be transferred cargo unladen contrary to law prior to the arrival of the importing vessel or aircraft at her port of destination;

d. Any part of the cargo, stores or supplies of a vessel or aircraft arriving from a foreign port which is unladen before the arrival at the vessel's or aircraft's port of destination and without authority from the customs officials; xxx

xxx xxx xxx

1. Any article sought to be imported or exported:

(1) Without going through a customhouse, whether the act was consummated, frustrated or attempted;

xxx xxx xxx

No evidence was presented before this Court by both parties. Petitioner opted to submit its case for summary judgement which was granted by the Court; likewise, Respondent submitted his case for decision on the basis of the evidence found in the customs record transmitted to this court. Also, no memorandum was filed by both parties in support of their respective cases.

The only issue to be resolved then is whether the decision of the Commissioner of Customs appealed from is legal and valid and in consonance with law.

We answer in the affirmative. We quote from the Decision of the respondent Commissioner:

> *It appears that the aforesaid vessel M/T 'Alice' and her sludge bunker oil cargo were apprehended in the afternoon of December 14, 1987 at the foot of Del Pan Bridge, Tondo, Manila. Evidence show that the oil were discharged from the vessel SS "Benington" of foreign registry without proper customs authority much less the corresponding payment of taxes and duties as required by the Tariff and Customs Law. That the oil was transferred to the M/T "Alice" which conveyed the same from the SS "Benington" to the foot of the Del Pan Bridge, where the oil evidently will be picked up by truck vans. That the oil could have been transferred to the truck vans and taken to unknown destination without payment of duties and taxes thereon due had it not for the timely arrival of the apprehending authorities. In short, this is a clear case of an importation without going through a customhouse in violation of Section 2530 par. L-1 of the Tariff and Customs Code. As to the vessel "M/T Alice" it is likewise clear that she violated Section 2530 par. a of the Tariff and Customs Code, hence liable to forfeiture. From the foregoing facts, it is clear that the bunker oil in question is liable to forfeiture, and the M/T "Alice" deserves the same penalty for carrying on board the smuggled bunker oil.*
> [Annex A, petition]

The allegation of petitioner that the Collector of Customs favorably recommended settlement of the case is of no moment for it is to be noted that under Section 2307 of the Tariff and Customs Code, such settlement is subject to the approval of the Commissioner of Customs.

Parenthetically, in its petition for review, petitioner alleged that the oil was not pilfered or stolen. In other words it invoked "good faith" as a defense. This however, did not help any. "Forfeiture is prescribed not only for fraudulent acts that result in the loss of revenue or administrative difficulty in the enforcement of customs laws." (U.S. vs. The Theophile, D.C. Tex. 11 F. 696; San Carlos Trading v. Comm. of Customs, CTA Case No. 31, Feb. 2, 1955).

The petition for review is therefor devoid of merit. We find no reversible error and therefore sustain the aforesaid decision of the Commissioner of Customs forfeiting the motor tanker M/T "Alice" and her cargo to be disposed of in the manner as provided for by law.

Furthermore, we are reminded of the well-settled rule that findings of administrative/quasi-judicial agencies which have acquired expertise/special knowledge because their jurisdiction is confined to specific matters are accorded not only respect but also finality (Latchme Motoomull vs. Dela Paz, 187 SCRA 743; Villanueva vs. Court of Appeals 205 SCRA 537; Sesbreno vs Ala, 208 SCRA 359; Villanueva, Sr. vs Leogardo, Jr., 215 SCRA 835).

WHEREFORE, the petition for review is hereby dismissed with costs against petitioner.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

MANUEL K. GRUBA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII, of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals