IGLESIA FILIPINA
INDEPENDIENTE,
Petitioner,

versus

C.T.A. CASE NO. 2384

COMMISSIONER OF INTERNAL
REVENUE and COMMISSIONER
OF CUSTOMS,
Respondents.

GREGORIO CO,
Intervenor.

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D E C I S I O N

In a letter dated August 18, 1971, addressed to the Secretary of Finance, petitioner, a religious organization in the Philippines, requested exemption from all taxes and duties on one hundred fifty (150) boxes of assorted canned foodstuff allegedly donated to it by J. M. Chen, Manager of Chu Tai Trading Commercial Company, Ltd. of Taipei, Taiwan, pursuant to Republic Act No. 1916 which exempts from all taxes and duties "all donations in any form and all articles imported into the Philippines, consigned to a duly incorporated or established international civic organization, religious or charitable society or institution for civic, religious or charitable purposes," provided that such donations are for use by the donees or for free distribution and not for barter, sale or hire.

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This request of petitioner was referred by the Secretary of Finance to the Philippine Embassy at Taipei for investigation to determine the circumstances surrounding the alleged donation. In the meantime, a shipment consisting of seventeen (17) pallets (boxes), a portion of the alleged donation, arrived in Manila on September 3, 1971.

Upon receipt of a report from the Philippine Ambassador at Taipei to the effect that the said 150 boxes of foodstuff were not actually donated but paid for, the Secretary of Finance, in his letter to petitioner dated October 19, 1971, denied the request for exemption on the ground that "this case is not a valid donation under Republic Act No. 1916 as the alleged Donor was paid the amount of HK$24,997.00." At the same time, the Commissioner of Customs, one of the respondents herein, was instructed to institute seizure proceedings against the said shipment.

On November 2, 1971, petitioner appealed the decision of the Secretary of Finance to the President of the Philippines, which appeal was referred to the Secretary for comment. The Secretary, in his 1st Indorsement to the Office of the President, dated December 3, 1971, justified the action previously taken by him on the matter on the ground that the importation, claimed to be a donation, was found after due investigation to be irregular. Apparently, petitioner was informed that its appeal to the President was referred to the Secretary of Finance and so it filed a request for reconsideration with the Secretary in its letter of December 17, 1971. The Office of the President must have approved the action taken by the Secretary of Finance because on December 27, 1971, the latter denied petitioner's request for reconsideration.

Realizing that it had no other recourse against the decision of the Secretary of Finance, petitioner addressed its request for exemption to the Commissioner of Customs, through the Commissioner of Internal Revenue, to enable it to seek judicial review in case of an adverse decision. No decision has been rendered by the Commissioner of Customs, but the Commissioner of Internal Revenue rendered a decision on February 2, 1972 denying the request for exemption on the same ground relied upon in the previous decision of the Secretary of Finance. Petitioner has instituted this appeal, naming both the Commissioner of Internal Revenue and the Commissioner of Customs as respondents.

Prior to the filing of the herein appeal, the Collector of Customs of Manila, pursuant to instructions of the Secretary of Finance, declared the said

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articles abandoned, after proper proceedings, in accordance with Section 1801 of the Tariff and Customs Code for failure of petitioner to file the necessary import entry. The articles were accordingly forfeited in favor of the Government as abandoned articles and were advertised for sale at public auction, petitioner not having exercised its right to reclaim the same as authorized under Section 1803 of said Code. The articles were sold to the highest bidder at the auction sale on February 22, 1972 to Gregorio Co, the intervenor, for the sum of ₱117,222.90, which was subsequently reduced to ₱99,251.70 because the goods were found to be less than the quantity advertised. The said buyer was authorized to take delivery of the goods, but upon motion of petitioner, the Court issued an order restraining the delivery of the goods to the buyer upon the filing of a surety bond for ₱74,382.00, the appraised value of said goods, including taxes and duties. Consequently, the buyer filed a motion for intervention, which was granted.

We will first consider the appeal from the decision of the Commissioner of Internal Revenue. The case against the Commissioner of Internal Revenue involves two issues, viz.: (1) whether or not this Court has jurisdiction over the subject matter, and (2) whether or not the goods in question are

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exempt from all duties and taxes as a donation, pursuant to Republic Act No. 1916.

On the issue of jurisdiction, respondent Commissioner of Internal Revenue adopted the stand of respondent Commissioner of Customs. It is the position of the latter that "this Honorable Court has no jurisdiction because the goods were declared abandoned and sold at public auction to the highest bidder, so that the question of whether or not the said goods were tax-exempt has become moot." (Page 2, Memorandum for Respondent Commissioner of Customs, Aug. 17, 1972.) This is untenable. The jurisdiction of this Court to review on appeal decisions of the Commissioner of Internal Revenue in matters involving liability to or exemption from internal revenue taxes of imported articles, under Sections 7 and 11 of Republic Act No. 1125, is not affected by the action taken by the Collector of Customs declaring the imported articles subject to seizure and forfeiture.

On the other hand, intervenor claims that since the question in regard to the exemption of said articles had already been previously decided by the Secretary of Finance, neither the Commissioner of Customs nor the Commissioner of Internal Revenue has jurisdiction over the subject matter. The implication is that the decision of the Commissioner of Internal Revenue, the subject of this appeal, is invalid; hence, not appealable. To quote from the memorandum of intervenor:

> Petitioner itself admits that the exemption from tax and duty it is applying for, in its letter dated January 29, 1972 to the Commissioner of Customs, through the Commissioner of Internal Revenue, is the same exemption it had already previously applied for directly with the Secretary of Finance, on September 3, 1971, and twice denied by the latter.
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> Therefore, this being so, the Commissioner of Internal Revenue and/or Commissioner of Customs could no longer acquire jurisdiction over the subject matter, that is to say, over the same exemption being applied for. For that would be making them review the denial already previously made twice by the Secretary of Finance. (Pp. 4-5, Memorandum for Intervenor, Aug. 8, 1972.)

That the Secretary of Finance has rendered a decision on a matter coming within the jurisdiction of the Commissioner of Internal Revenue or of the Commissioner of Customs does not preclude either Commissioner from rendering his decision on the same matter. To sustain the view of intervenor would be to nullify the explicit provisions of Republic Act No. 1125 giving taxpayers the right to appeal from decisions of said Commissioners in matters pertaining to internal revenue taxes and customs duties. This right of taxpayers could be nullified by the mere expedience of having a customs or internal revenue case decided by the Secretary of Finance. At any rate, this question has already been passed upon and decided by the Supreme Court.

> The Court of Tax Appeals had jurisdiction over the instant case in view of the fact that the decision sought to be reviewed therefor is that of the Collector (now Commissioner) of Internal Revenue, dated December 19, 1955, regarding respondent's liability for forest charges and surcharges. The said court's conclusion regarding the limited grant of tax exemption by the Secretary of Finance is merely incidental to the principal issue, namely, the validity of the assessment by the Collector of Internal Revenue. (Collector v. Lacson, 107 Phil. 945.)

On the question of whether or not the goods in question were actually donated and, therefore, exempt from taxes and duties, petitioner vigorously insists that they were donated and that even if the shipper, Chu Tai Chang Trading Commercial Co., Ltd., of Taipei, was paid for such goods, the fact is that petitioner did not pay anything for them. The one who made the payment for the goods and who received nothing from petitioner is the donor. Therefore, the fact that payment was made for the goods does not alter the nature of the transaction as a donation.

We agree with petitioner that if, as alleged, the goods were consigned to it as a donation; that no payment of any kind was made by it for such goods; and that the same were to be distributed free to its poor and needy members, the donation qualifies for exemption under the provisions of Republic Act No. 1916. (See Commissioner v. Church of Jesus Christ, G.R. No. L-15722, Oct. 31, 1961, 3 SCRA 386.) The question to be determined is, was there a donation and, if so, who is the donor?

From the purported deed of donation, it appears that the donor is Y. M. Chen, manager of Chu Tai Chang Trading Commercial Co., Ltd. of Taipei, but when he was interviewed for the first time by Rolando C. Sevilla, Finance Attaché detailed at the Philippine Embassy at Taipei, he stated that he was "not the real donor since he received payment for the canned foodstuffs," and that Chu Tai Chang Trading Commercial Co., Ltd. "undertook the shipment upon instruction of his brother Mr. Chen Chi Jen now residing in Hongkong who actually paid for the goods by remitting the money from Hong Kong." (See Exh. 2, p. 161, CTA rec.) However, when he was again interviewed because of the intercession of a representative of petitioner, he retracted his former statement. He was then asked to show proof of his

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financial capacity to make the donation, such as, (1) income tax return; (2) volume of business of his firm; and (3) other supporting papers concerning his financial status; he promised to do so. However, he failed to honor his promise. Instead, he submitted a statement worded as follows:

> "Please be informed my donation of assorted canned food stuffs to Iglesia Filipina Independiente was donated by me. I had not received any payment from my brother or to anyone. I am requesting your good office not to ask me anymore questions I have my own reasons why I give donation to your people. I hope Iglesia Filipina Independiente will receive my donation for distribution to the members. I believe I made my donation to Iglesia Filipina Independiente clear to your government." (Exh. F-1, p. 160, CTA rec.)

The intention of Y. M. Chen to make the donation to petitioner is not as clear as he would want to make it appear. At first, he admitted his company was paid by his brother who was residing in Hongkong; then he made a complete turnabout. No attempt was made to explain the first statement. His belligerent attitude in refusing to show proof of his capacity to make the donation is hardly one that is to be expected of one so generous and benevolent as to give a donation involving a very substantial amount. We say that the alleged donation involves a

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very substantial amount because the appraised value of the 17 boxes which have already arrived in Manila is ₱61,229.00, so that the estimated value of the entire donation of 150 boxes would be about ₱540,255.00, if the remaining 133 boxes contain similar articles. Again, a bona fide donor of such amount would undoubtedly make an honest effort to reveal the circumstances surrounding the donation and his capacity to make it, considering that failure to do so would result in the complete loss not only to the donee but to him because of the possibility of the articles being subjected to seizure and forfeiture. The possibility of the loss of the donation has not apparently affected the supposed donor. Considering these circumstances, the claim that Y. M. Chen made a donation of said articles to petitioner can hardly be believed. Neither can we believe that the brother of Y. M. Chen, allegedly residing in Hongkong, made the donation. First, because Y. M. Chen himself retracted his first statement; second, the alleged brother could not be found at the indicated address in Hongkong; and, third, there is no showing that said brother is financially capable of making the donation. We are not, therefore, inclined to sustain petitioner's claim for tax exemption.

As regards the appeal contesting the legality of the action of the Collector of Customs of Manila in declaring said articles as having been impliedly abandoned and their subsequent forfeiture and sale at public auction, we are of the opinion that we have no jurisdiction over the case. As heretofore stated, the said articles were declared abandoned, forfeited and sold at public auction pursuant to Sections 1801 and 1803 of the Tariff and Customs Code and in compliance with the instructions of the Secretary of Finance. No appeal was taken by petitioner from the decision of the Collector of Customs to the Commissioner of Customs in accordance with Section 2313 of the Tariff and Customs Code. An appeal from the decision of the Collector to the Commissioner of Customs is essential to enable a person adversely affected to appeal to this Court (Chan Kian v. C.T.A., 105 Phil. 904) because only decisions of the Commissioner of Customs in customs cases are reviewable by this Court (Rufino Lopez v. C.T.A., 100 Phil. 850; Chan Kian v. C.T.A., supra).

In resumé, we are of the opinion that the decision of respondent Commissioner of Internal Revenue denying the petitioner's claim for exemption from all taxes and duties in respect of said articles is in order, and has to be, as the same is hereby, affirmed. The appeal with respect to respondent Commissioner of Customs is hereby dismissed for lack

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of jurisdiction. Consequently, the order of this Court restraining the delivery of said articles to intervenor is hereby lifted, and the surety bond filed on March 17, 1972 by petitioner, as principal, and Belfast Surety & Insurance Co., Inc., as surety, for the sum of ₱74,382.00, is hereby cancelled.

SO ORDERED.

Quezon City, September 27, 1972.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge

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