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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

F. CABALLERO,
Petitioner,

- versus - C.T.A. CASE NO. 1640

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

May 26/67

D E C I S I O N

This is an appeal from the decision of respondent dated April 20, 1965, affirming that of the Collector of Customs in Seizure Identification Nos. 2205, 2209 and 2222 declaring the forfeiture in favor of the Government of the merchandise involved therein for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code, and ordering petitioner and his surety to pay, jointly and severally, to the Bureau of Customs the full amount of the bonds.

As agreed by the parties, petitioner imported into the Philippines a total of one hundred three (103) packages of various merchandise which arrived in Manila from Hongkong on board the SS "Aeolus" and SS "Patagonia" on November 19 and December 1, 1954. The said shipments were covered by the corresponding bills of lading but not by the required commercial invoices and Central Bank release certificates. Consequently, the shipments were seized by the Collector of Customs for violation of Central Bank Circulars Nos. 44 and

45, in relation to Section 1363(f) of the Revised Administrative Code.

Pending the seizure proceedings before the Collector of Customs, said shipments were released under Surety Bonds Nos. 185, 186 and 195 of the Pioneer Insurance & Surety Corporation dated November 22, 1954, November 22, 1954, and December 1, 1954, respectively, in the total sum of ₱12,708.00.

On March 8, 1961, the Collector of Customs, finding that the importations were not covered by Central Bank release certificates as required by Central Bank Circulars Nos. 44 and 45, declared the forfeiture of the surety bonds and ordered petitioner and his surety to pay, jointly and severally, to the Bureau of Customs the full amount of said bonds.

The decision of the Collector of Customs was appealed by petitioner to the Commissioner of Customs, who, on April 20, 1965, affirmed the decision of the Collector of Customs. Hence, this appeal.

The only issue raised is whether or not the forfeiture of the shipments in question is in accordance with law.

Petitioner assails the decree of forfeiture on the sole ground that Central Bank Circular No. 133 has repealed Central Bank Circulars Nos. 44 and 45 and that such repeal produced the effect of declaring the seizure and forfeiture illegal and void.

This question is not new. In similar and analogous cases involving the same issue (Pascual v. Comm. of Customs, G.R. No. L-10979, June 30, 1959; Acting Comm. of Customs v. Estanislao Leuterio, G.R. No. L-9142, Oct. 17, 1959; Comm. of Customs v. Serree Investment Co., G.R. No. L-12007, May 16, 1960; Comm. of Customs v. Eastern Sea Trading, G.R. No. L-14279, Oct. 31, 1961; Comm. of Customs v. Santos, G.R. No. L-11911, March 30, 1962; Comm. of Customs vs. Nepomuceno, G.R. No. L-11226, March 31, 1962; Serree Investment Co. v. Comm. of Customs, G.R. No.L-21217, Nov. 29, 1965; Andres E. Lazaro v. The Comm. of Customs, G.R. Nos. 21790 and L-21794, December 24, 1965; Andres E. Lazaro v. Comm. of Customs, G.R. Nos. L-22511 & L-22513, May 16, 1966; Bienvenido Capulong v. The Acting Comm. of Customs, G.R. No. L-22990, May 19, 1966), the Supreme Court upheld the validity of Central Bank Circulars Nos. 44 and 45, and rejected the theory of their repeal by Central Bank Circular No. 133. In the case of Andres E. Lazaro v. Comm. of Customs, G.R. Nos. L-22511 and L-22513, May 16, 1966, the Supreme Court held:

> "Petitioner also contends that the merchandise in question cannot be legally forfeited under Central Bank Circulars Nos. 44 and 45 because these circulars have already been repealed by Central Bank Circular 133. This contention is without merit. Central Bank Circular No. 133 has not exactly repealed Central Bank Circulars

Nos. 44 and 45 but rather it reenacted them when it provided therein that all existing regulations not inconsistent with the circular are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular No. 133 have a common purpose - which is to require the presentation of a release certificate from the Central Bank before any importation may be made to the Philippines. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come into the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long-drawn financial crisis in the country.

"Even assuming that Central Bank Circular No. 133 had the effect of repealing impliedly Central Bank Circulars Nos. 44 and 45, such repeal, however, cannot have the effect of abating the forfeiture case instituted against petitioner for the simple reason that forfeiture proceedings are civil in nature and not criminal. In this sense, the repeal cannot be given any retroactive effect."

WHEREFORE, finding no error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, May 26, 1967.

ROMAN M. UMALI
Presiding Judge

I CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

Associate Judge Ramon L. Avanceña did not take part.