REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

NATIONAL STEEL CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 6180

THE TARIFF COMMISSION, MAYER STEEL CORPORATION, MKK STEEL CORPORATION, SUPREME STEEL PIPE CORPORATION, MAGNITOGORSK IRON AND STEEL WORKS and OPEN JOINT STOCK COMPANY SEVERSTA
Respondents.

Promulgated:
MAY 22 2001

x - x

RESOLUTION

At bar is a Motion to Dismiss filed by the Public Respondent Tariff Commission on December 4, 2000, on the ground that this Court lacks jurisdiction over the subject matter of this case since the public Respondent's Report on Findings assailed by the Petitioner does not impose any dumping duty.

Movant believes that the Court of Tax Appeals may take cognizance of an anti-dumping case only if an anti-dumping duty has been imposed. Respondents' ratiocination hinges mainly on the provisions of subsection I of Republic Act No. 7843 or the Anti-Dumping Act of 1994, amending Section 301 of the Tariff and Customs Code which provides, to wit:

> "Any aggrieved party may appeal only the amount of the dumping duty to the Court of Tax Appeals in the same manner and within the same period as provided for by law in the case of appeal from decision of the

> Commissioner of Customs. The findings of fact in a dumping case shall be final and conclusive."

From the above and citing as its basis the decision of the Court of Appeals in the case of **Total 2000 Corporation vs. Court of Tax Appeals, et. al., CA-G.R. SP No. 42380, February 18, 1997,** where the said Court ruled that the Court of Tax Appeals does not have jurisdiction if the anti-dumping decision of the Secretary of Finance does not impose any dumping duty, accordingly, Respondent concludes that the petition must be dismissed.

To controvert public Respondent's stance, Petitioner, in support of its petition relied on the provisions of Republic Act No. 8752 or the Anti-Dumping Act of 1999 which, allegedly, is the applicable law since the same was already in force at the time the instant appeal was interposed. Petitioner opines that under subsection (1) R.A. No. 8752, a party has a right to appeal a negative finding of the Tariff Commission, thus:

> "In case of a negative finding by the Commission, the Secretary shall issue, after the lapse of the period for the petitioner to appeal to the Court of Tax Appeals, through the Secretary of Finance, an order for the Commissioner of Customs for the immediate release of the cash bond to the importer. In addition, all the parties concerned shall also be properly notified of the dismissal of the case."

On the other hand, Respondent asserts that the applicable provision is subsection (p) of the aforesaid law which provides, thus:

> (p) *Judicial Review*. - Any interested party in an anti-dumping investigation who is adversely affected by a final ruling in connection with the imposition of an anti-dumping duty may file with the Court of Tax Appeals, a petition for the review of such ruling within thirty (30) days from his receipt of notice of the final ruling: *Provided, however*, That the filing of such petition for review shall not in any way stop, suspend, or otherwise hold the imposition or collection, as the case may be, of the anti-

> dumping duty on the imported product, commodity or article. The rules of procedure of the court on the petition for review filed with the Court of Tax Appeals shall be applied.

All the aforementioned provisions studiedly considered, the ineluctable conclusion is that the Petition for Review must be dismissed.

The issues in this case having been resolved by this Court in the case entitled **National Steel Corporation vs. Tariff Commission, et. al., CTA Case No. 6140, January 15, 2001,** We see no cogent reason at this point to deviate from, much less disregard what We have already elaborated upon, and We quote thus:

> "We opine that the main thrust of subsection (l) is the issuance of an order by the Secretary for the release of the cash bond after a negative finding. The right to appeal from a negative finding cannot simply be inferred from the mere mention of the phrases "in case of a negative finding by the Commission" and "after the lapse of the period for the petition to appeal to the Court of Tax Appeals". The reference to the period to appeal to the CTA is simply to provide for a reckoning period for the Secretary to issue an Order for the Commissioner of Customs to immediately release the cash bond to the importers in case of a negative finding by the Commission. Whereas in case of a final affirmative determination by the Commission, the Secretary is mandated to order the imposition of the anti-dumping duty through a Department Order as well as to apply the cash bond, if any, to the said dumping duty.
>
> On the other hand, subsection (p) provides for a more direct and unequivocal authority on when judicial appeal to the CTA is proper as compared to the mere collateral citation in subsection (l). It must be pointed out that the right to appeal, being a mere statutory right, cannot be simply based on mere implications.
>
> The provision of subsection (p) is quite clear. Thus, only a party who is adversely affected by a final ruling in connection with the imposition of an anti-dumping duty may file a petition for review with the CTA. Considering that in the case at bar no anti-dumping duty was imposed, filing a petition for review with the CTA is not proper. To put it differently, the CTA has no jurisdiction to entertain the same.

The rationale for defining limits upon the jurisdiction of the CTA on appeals from dumping decisions is anchored on the recognition by law of the presumed expertise of the investigating/deciding authority in the dumping case.

It is likewise worth stressing at this point that Republic Act No. 1125, An Act Creating the Court of Tax Appeals, vested the CTA jurisdiction over the following:

> **SEC. 7.** ***Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessment, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs law or other law or part of law administered by the Bureau of Customs; and
>
> x x x x x x x x x

R.A. No. 1125 created a special court to review on the subject matters above enumerated. Now, to adopt Petitioner's view would mean that the Anti-Dumping Act of 1999 enlarges CTA's jurisdiction as it will now review the findings of the Tariff Commission regardless of whether a dumping duty is imposed or not. We hold that that is not the intendment of the law.

Accordingly, it is more logical to conclude that the CTA has jurisdiction only in cases when a dumping duty is imposed wherein it can re-compute or review the amount so imposed.

Stated otherwise, the jurisdiction of this Court is not only limited to decisions of the Commissioner of Internal Revenue and Commissioner of

Customs, as mentioned in R.A. 1125 (The Law Creating the Court of Tax Appeals), but also includes decisions of the Secretary of Finance in certain cases as clearly provided for in Section 2315 of PD 1464, otherwise known as The Tariff and Customs Code of the Philippines (TCCP). The jurisdiction of this Court was likewise expanded by Section 301 of the TCCP as amended by R.A. 8752 (The Anti-Dumping Act of 1999). Paragraph (p) of said Section 301 of the TCCP, as amended, provides that any party adversely affected by a final ruling in connection with the imposition of an anti-dumping duty may file a petition for review with this Court. Since in the case at bar it was not disputed that no anti-dumping duty has been imposed, the Court has no jurisdiction over the instant case.

Finally, basic is the rule that all parts of the statute are to be harmonized and reconciled so that effect may be given to each and every part thereof. Nevertheless, assuming that there exists a real conflict between subsections (l) and (p), We concur with the Public Respondent that the doubt should be resolve in favor of the latter because it has been held that the provision last in order of position will prevail as being the latest expression of the intent of the legislation. (Arenas vs. City of San Carlos, 82 SCRA 318). Moreover, when one provision or section of a statute treats specially and solely of a matter, that section or provision prevails over other sections to which only incidental reference is made thereto. (Handbook on Statutory Construction, Martin, 5th ed., p. 148)."

IN VIEW OF ALL THE FOREGOING, the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

ERNESTO D. ACOSTA
Presiding Judge