REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

F. SAMSON COMMERCIAL,
Petitioner,

-versus- C.T.A. CASE NO. 945

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from the decision of respondent dated March 30, 1960, affirming that of the Collector of Customs of Manila in Seizure Identification No. 2515 (Customs Case No. 91) ordering the forfeiture in favor of the Government of merchandise allegedly imported in violation of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363 and 1250 of the Administrative Code.

The facts, as correctly found by the Collector of Customs of Manila, are as follows:

> This case has reference to the shipment of 84 pieces complete unassembled tricycle, 30 pieces assembled auto for children, 15 dozens "Hanes" brief shorts and 97 dozens "Hanes" underwear which were seized by the Appraisers' Division of the Bureau of Customs for violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code and Sections 1363(m) 3, 4 and 5, and 1250 of the same Code.
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> The importation was shipped from the Port of New York, by the AMCROP LIMITED, per S/S "STEEL CHEMIST", consigned to P. Samson Commercial and arrived at the Port of Manila on December 28, 1954.

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> The shipment was declared in Customs Entry No. 105032, Exhibit "A", series of 1954, as "15 cases parts of bicycles and of other cycles, with a CIF value of $1,465.00" and is covered by L/C No. 13732, Exhibit "1", dated September 6, 1954, with a value of $2,920.00, for "EP-730302, parts of bicycles and of other cycles." The importation is accompanied by the corresponding Bill of Lading No. 43, Exhibit "D", Consular Invoice No. 42975, Exhibit "B" and Commercial Invoice, Exhibit "C", describing the goods as "15 cases parts of bicycles and of other cycles", with a value of $1,465.00. The Central Bank release Certificate No. RC-7062, Exhibit "E", issued by the agent bank, the Philippine Bank of Commerce, calls for "15 cases parts of bicycles, Code No. EP-730302, with a CIF value of $1,465.00. When the importation was examined by Mr. Emiliano Belulia, Customs examiner, on January 26 and 27, 1955, he found that the actual importation consists of "84 pieces complete unassembled tricycles, 30 pieces assembled auto for children, 15 dozens "Hanes" brief shorts and 97 dozens "Hanes" underwear. Hence, this seizure proceedings. (pp. 21-22, Customs record.)

The only issue raised is whether or not the forfeiture of the importation in question is in order.

Petitioner assails the legality of Central Bank Circulars Nos. 44 and 45, contending that they were not validly issued, and even assuming the contrary, the latter circular was repealed by Section 6 of Republic Act No. 1410.

The validity of Central Bank Circulars Nos. 44 and 45 is now well-settled to merit a detailed discussion. In previous cases of similar issue (Pascual

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v. Comm. of Customs, G.R. No. L-10979, June 30, 1959; Acting Comm. of Customs v. Estanislao Leuterio, G.R. No. L-9142, October 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, October 31, 1961; Comm. of Customs v. Santos, G.R. No. L-11911, March 30, 1962; Comm. of Customs v. Nepomuceno, G.R. No. L-11126, March 31, 1962; Serree Investment Co. v. Comm. of Customs, G.R. No. L-19564, November 28, 1964; Serree Investment Co. v. Comm. of Customs, G.R. No. L-21217, November 29, 1965; Andres E. Lazaro v. the Comm. of Customs, G.R. Nos. L-21790 and L-21794, December 24, 1965; Bienvenido Capulong v. The Acting Comm. of Customs, G.R. No. L-22990, May 19, 1966; Andres E. Lazaro v. The Commissioner of Customs, G.R. Nos. L-22511 and L-22513, May 16, 1966), the Supreme Court upheld the validity of said circulars. Similarly, it rejected the theory that Republic Act No. 1410 repealed Central Bank Circular No. 45 in the case of Andres E. Lazaro v. The Commissioner of Customs, G.R. Nos. L-22511 & L-22513, supra, wherein it was held:

> "The alleged implied repeal of Circular No. 45 by Republic Act No. 1410 is without merit for there is nothing in Section 6 of Republic Act No. 1410 which could be construed as having repealed Circular No. 45. But even if we assume that said Act had the effect of impliedly re-

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> pealing the aforesaid Circular still such repeal cannot also abate the forfeiture case against petitioner for the simple reason that Republic Act No. 1410 cannot be given a retroactive effect so as to defeat any act or transaction effected or undertaken during the life of Circular No. 45. The authority we quoted in the preceding paragraph equally applies to this instance. Indeed, under Article 4 of the New Civil Code, 'Laws shall have no retroactive effect, unless the contrary is provided.' Here there is no such contrary provision." (See also Capulong v. Aseron, G.R. No. L-22989, May 14, 1966; Andres E. Lazaro v. The Comm. of Customs, G.R. Nos. L-21790 & L-21794, Dec. 24, 1965, and authorities cited therein.)

The contention that the maximum liability of the imported goods for violation of Central Bank Circulars Nos. 44 and 45 should not include the thirty (30%) per cent expected profits is without merit. Petitioner having voluntarily filed the bond (Malayan Insurance Co., Inc. Bond No. 8374, June 24, 1955) for the release of the articles imported, it is now estopped from disputing the legality thereof. (See Philippines International Surety Co., Inc. v. The Comm. of Customs, CTA Case No. 1183, December 7, 1963.)

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

SO ORDERED.

Quezon City, April 11, 1967.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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