BOMBAY DEPARTMENT STORE,
Petitioner,

- versus - C.T.A. CASE NO. 788

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

On December 12, 1954, there arrived at the Port of Manila an importation of 5 cases, consigned to petitioner Bombay Department Store and described in the bill of lading, commercial and consular invoices, and entry as parts of cycles. The Central Bank release certificate presented by petitioner also described the same as parts of cycles (730302-EP). However, upon examination by customs authorities, the importation was found to consist of 4 pcs. Men's Bicycles (complete), 4 pcs. Men's Bicycles (complete), 1 pc. Boy's Tricycle (complete), 6 pcs. Children's Bikes, 6 pcs. Children's Bikes, 151 pcs. Sheaffer's pens, 20 bxs. handkerchiefs (cotton), 1 pc. Children's Sweater w/Shoes, 40 pcs. Men's Sportswears (rayon), 42 pcs. handbags, 36 pcs. Men's Jackets (leather), 20 bxs. Cufflinks and buttons, 2-½ bxs. Cufflinks and buttons, 6 bxs. Cufflinks, and 6 bxs. buttons. Hence, the importation was seized and later declared forfeited by the Collector of Customs for the Port of Manila for violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code.

In the interim, the importation was released to petitioner Bombay Department Store upon the filing of the First National Surety & Assurance Co., Inc. Bond No. 2021, dated August 4, 1955, in the amount of ₱5,779.81, the conditions of which follow, to wit:

> "NOW, THEREFORE, the conditions of this obligation are such that in the event that it should be finally decided that the merchandise herein mentioned should be forfeited to the Government, and/or that a fine or surcharge should be imposed, the entire amount of this bond, in case of forfeiture, or the corresponding amount of the fine or surcharge, as the case may be, shall be paid in CASH to the Bureau of Customs; PROVIDED, HOWEVER, that if within thirty (30) days from demand for payment of the liability herein mentioned the said liability is not paid, and it should be found necessary to file an action in court to effect the collection thereof, a penalty of FIVE HUNDRED PESOS (₱500.00) in addition shall be imposed otherwise, this obligation shall be void and of no effect."

From the Collector's decision of forfeiture, petitioner appealed to respondent who affirmed the same on the ground of violation of Central Bank Circulars Nos. 44 and 45 and Section 1363(f), (i), (m)-3, (m)-4 and (m)-5 of the Revised Administrative Code. Being dissatisfied with respondent's decision, petitioner filed the instant petition for review, to which respondent answered, praying that petitioner be ordered to pay him the sum of ₱5,779.81, plus interest thereon and ₱500.00 as additional damages.

The Central Bank release certificate presented by petitioner to the customs authorities authorizes the release of parts of cycles (730302 - EP). The statistical classification of commodities issued by the Central Bank as implementing Central Bank Circulars Nos. 44 and 45 (revised on July 1, 1954) describes the commodities falling under Code No. 730302-EP as parts of bicycles and other cycles, not motorized (not including tires and electric parts). Obviously, the bicycles and tricycles, which are complete, do not fall under Commodity Code No. 730302-EP. In consequence, they are not covered by the Central Bank release certificate presented by petitioner.

It cannot be questioned that the pens, handkerchiefs, sweater, sportswears, handbags, jackets, cufflinks and buttons in question are not parts of bicycles and of other cycles, not motorized. They are likewise not covered by the Central Bank release certificate.

Since the importation in question was not covered by the Central Bank release certificate presented by petitioner, it may be said that said importation was made without a release certificate. For this reason, it falls within the class of merchandise the importation of which was effected contrary to law and may be forfeited for violation of Central Bank Circular No. 44, in relation to Section 1363(f) of the Revised Administrative Code (Pascual vs. Commissioner of Customs, G.R. No. L-10979, June 30, 1959).

Furthermore, the importation at bar is subject to forfeiture in pursuance of Section 1363 (m)-3 and 4 of the Revised Administrative Code for the reason that the importation was effected upon the wrongful making of the commercial invoice by the exporter and of the entry by petitioner-importer.

Relative to respondent's claim for payment of additional damages amounting to ₱500.00, it may be stated that there is as yet no final judgment of forfeiture.

Consequently, there is as yet no liability on the part of petitioner for said damages (see Lazatin vs. Commissioner, CTA Case No. 782, Jan. 19, 1962; Que Hua Shirt Factory vs. Commissioner, CTA Cases Nos. 739 & 753, Jan. 11, 1962).

WHEREFORE, the decision appealed from is hereby affirmed. The petitioner Bombay Department Store is ordered to pay to the Commissioner of Customs or his authorized agent the amount of ₱5,779.81. With costs against petitioner.

SO ORDERED.

Manila, August 1, 1962.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge

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