REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ROSIE PENALOSA, Claimant: Shipment of personal effects and household goods, per S/S Neptune Alexandrite, Reg. No. JDT – 018, arrived on March 15, 1997 from Los Angeles, USA,
Petitioner,

- versus -

C.T.A. CASE NO. 5744

DEPUTY COMMISSIONER OF CUSTOMS, Bureau of Customs, Port Area, Manila,
Respondent.

Promulgated:
AUG 30 1999

x - x

RESOLUTION

This is a motion filed by Petitioner on July 16, 1999, seeking for the release pendente lite of 400 boxes of various clothing apparel, which shipment was denied clearance by Deputy Commissioner Licerio Evangelista of the Bureau of Customs through an Order, dated June 15, 1998, the dispositive portion of which reads as follows:

> "WHEREFORE, premises considered, the Clearance requested is DENIED and the Order dated May 6, 1998, REVERSED and new one entered directing that forfeiture proceedings be initiated against the shipment.
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> x x x x x x x x x
>
> SO ORDERED."

The factual backdrop of the case are as follows:

Petitioner is a balikbayan on her first time to settle back in the Philippines. The shipment arrived in the Philippines from Los Angeles, California, U.S.A. on March 15, 1997. It was assessed with duties and taxes in the amount of P146,995.00 which was paid on April 30, 1997. A clearance was sought and the shipment was released on July 7, 1997.

Based on the shipping and commercial documents, Informal Entry No. 007700-97 was filed declaring the shipment as 1x40 ITC Container STC 775 pieces "Personal Effects and Household Goods", which was processed pursuant to CMO 10-91 considering that the shipment was consigned to a single consignee, availing of the privileges accorded by law to balikbayans. The shipment was subjected to a 100% examination resulting to 87 boxes/pieces of used personal effects and household goods, and 400 boxes of various clothing apparel on the basis of which a recommendation was made subjecting the shipment to 20% penalty based on the landed cost in addition to the duties and taxes.

Finding the recommendation in order, the shipment was cleared for release pursuant to CMO 10-91 after claimant paid the amount of P146,995.00. This includes the penalty based on the landed cost in addition to the duties and taxes due thereon. Upon release from customs custody, the shipment was apprehended by EIIB agents on the suspicion that it contained used clothings, a prohibited importation for which reason a Warrant of Seizure and Detention was issued.

Through an order dated 6 May 1998, the District Collector of Customs lifted the Warrant of Seizure and Detention and ordered the release of the shipment after proper identification and payment of additional duty and tax in the amount of P840.00.

However, this Order was reversed by the respondent Deputy Commissioner and the shipment was denied clearance, as mentioned at the outset, giving rise to the instant petition.

After a careful study of the facts attendant to the case at bar, We decline to rule on the "Motion to Release Shipment Under Bond" filed by Petitioner. It is important to note that Petitioner in this case filed an appeal from an order of the Deputy Commissioner of Customs "directing that forfeiture proceedings be initiated against the shipment." In other words, there is as yet no order of forfeiture handed down by Respondent that is appealable before this Court under Section 7 of Republic Act No. 1125, thus:

> **Sec. 7.** ***Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided –
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> (1) x x x
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> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizures, 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
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> x x x x x x x x x

The Order of June 15, 1998 cannot be considered a final decision that is appealable to this Court as it merely directed the initiation of forfeiture proceedings against the shipment. Petitioner's act of elevating its case to this Court before any forfeiture proceedings may be conducted by the Bureau of Customs is therefore premature as there is as yet no adverse decision ripe for judicial review.

It appearing that the shipment subject of this case are not prohibited by law, a release under cash bond pursuant to Section 2301 of the Tariff and Customs Code may be pursued by the Bureau and the petitioner to prevent wastage of the articles which may deteriorate during the pendency of this case.

WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant petition and remanding the case to the Bureau of Customs so that the proper forfeiture proceedings may be conducted, without prejudice to re-filing the same before this Court should a decision adverse to Petitioner be rendered.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

RAMON O. DE VEYRA
Associate Judge