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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

RAMON LIMCAOCO,
Petitioner,

- versus - CTA CASE No. 1444

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

May 12/66

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs dated April 15, 1963, affirming that of the Collector of Customs of Manila in Customs Case No. 641, (Manila SI No. 6071) decreeing the forfeiture of twelve (12) cases of cotton sewing thread, for alleged violation of Central Bank Circular No. 44, in relation to Section 2530(f) of the Tariff and Customs Code. This case was submitted for decision solely on the basis of the Customs record elevated to this Court.

The records show that on August 7, 1960, there arrived at the Port of Manila on board the "S/S ADMIRAL," twelve (12) cases of cotton sewing thread consigned to petitioner under Invoice No. 610 (p. 5, Customs Rec.) describing the merchandise as "Machine Embroidery Thread" (EC-651-04.04). The corresponding Release Certificate No. 3353 issued by the Central Bank on July 15, 1960 (Exh. "C," p. 7, Customs Rec.) likewise described it as "Machine Embroidery Thread" under Commodity Category and Code No.

RC-651-04.04. The Release Certificate was validated on August 8, 1960 (See Exh. "C" supra.). Upon examination of the shipment, the appraiser of the Bureau of Customs classified the articles as Machine Embroidery Thread under Commodity Classification No. UI-651-04.01. As a consequence of the discrepancy between the goods described in Invoice No. 610 and the articles actually imported, the validation of the release certificate was cancelled. (See Exhs. C-1 & C-2).

Subsequently, the Collector of Customs of Manila, in his decision dated December 20, 1962, in S.I. 6071, (pp. 119-121, Customs Rec.) decreed the forfeiture of the merchandise in favor of the government for violation of Central Bank Circular No. 44, in relation to Sec. 2530(f) of the Tariff and Customs Code. This decision was affirmed by the Acting Commissioner of Customs in his decision dated April 15, 1963. (pp. 125-131, Customs rec.). Hence, this appeal.

The issues submitted for our resolution are as follows:

(1) Whether or not the imported articles are liable to forfeiture for violating Central Bank Circular No. 44, in relation to Section 2530(f) of the Tariff and Customs Code; and (2) whether or not

Central Bank Circular No. 44 has been repealed by Central Bank Circular No. 133.

The evidence of record strongly supports the finding that the articles described in the release certificate as Machine Embroidery Thread, under Commodity Classification No. EC-651-04.04, are actually of Cotton Threads which are bleached, dyed or mercerized, and they fall under Commodity Classification No. GI-651-04.01. This fact was not even rebutted by petitioner. Accordingly, we find that the articles in question were not validly covered by the release certificate. We, therefore, hold that the said articles are subject to forfeiture because they were imported contrary to law. (See Farm Implement Machinery Co. v. Comm. of Customs, G.R. No. L-12613, May 30, 1962; Serree Investment Co. v. Comm. of Customs, G.R. No. L-19564, Nov. 28, 1964; Felipe Yupangco & Sons, Inc., v. Comm. of Customs, G.R. No. L-22251, Jan. 19, 1966).

The question of whether or not Central Bank Circular No. 133 repealed Central Bank Circular No. 44, thereby abating all liabilities incurred thereunder, is not a question of first impression. In a case involving the same issue, the Supreme Court ruled:

"The issue of whether or not the importations in question are subject to forfeiture for lack of a Central Bank release certificate in violation of Central Bank Circulars 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code has already been answered in the affirmative in previous cases involving similar facts.[1] We see no cogent reason to alter our previous rulings.

"Central Bank Circular 133 did not repeal Circulars 44 and 45 with respect to the necessity of a release certificate. As a matter of fact, paragraph 6 of Circular 133 required imports to be released only upon presentation of a release certificate issued by the Central Bank. Not only that, Section 14 of Circular 44 which states:

> '14. No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any authorized Agent Bank in a form prescribed by the Monetary Board.'

was deemed incorporated to Circular 133 by virtue of paragraph 8 thereof which we quote hereunder:[2]

> '8. All existing circulars, rules, regulations, and conditions governing transactions in foreign exchange not inconsistent with the provisions of this Circular,

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[1] Serree Investment Company v. Commissioner of Customs, L-21217, November 29, 1965 and cases cited therein.

[2] Bombay Department Store v. Commissioner of Customs, L-20489, June 22, 1965; Bombay Department Store v. Commissioner of Customs, L-20460, September 30, 1965.

are deemed incorporated hereto and made integral parts hereof by reference.'

"With respect to the assertion that the enactment of Republic Act 1410 abated any liability incurred for violation of Central Bank Circular 45, suffice it to say that the importations in question do not come within the operation of said Act, for Section 3 thereof says:

'SEC. 3. x x x Provided, however, That goods and commodities in transit or previously imported on a no-dollar remittance basis at the time of the approval of this Act shall not be affected by the operation of this Act.' (Underscoring supplied) (Andres R. Lazaro v. Commissioner of Customs, G.R. Nos. L-21790 & L-21794, Dec. 24, 1965)

IN VIEW OF THE FOREGOING CONSIDERATIONS, the decision appealed from is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, May 12, 1966.

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

I CONCUR:

R M Umali
ROMAN M. UMALI
Acting Presiding Judge