Republic of the Philippines
COURT OF TAX APPEALS
MANILA

MUSÑGI & SONS,
Petitioner,

- versus -

C.T.A.
CASE NO. 789

THE COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - x

D E C I S I O N

The petitioner has appealed from the decision of the respondent affirming that of the Collector of Customs of Manila in Seizure Identification No. 2483, dated July 12, 1955, decreeing the forfeiture of two (2) cases of merchandise consisting of tricycles (complete), fancy jewelry, cigarette lighters, fountain pens, etc. The said two cases of merchandise were shipped by Milshire International Corporation, 110 West 40th Street, New York 18, U. S. A., consigned to petitioner.

It is alleged that petitioner ordered from the shipper two cases of cycle parts. What actually arrived were two cases containing complete tricycles, fancy jewelry, cigarette lighters, fountain pens, etc., as follows:

CASE I - 36 pcs. in 12 Ctns.
Junior Tricycle complete

CASE II - 125 pcs. Empty boxes Sheaffer's Fountain pen containers for display
349 pcs. Cotton Shirts (Barclay Sport Wear)

18	pcs.	Ladies Rayon Handbag
527	pcs.	Men's Mercerized cotton socks
431	pcs.	Sheaffer's Fountain pen
83	pcs.	Panty Girdle 3/ad. garter (Playtex-Magic-controller in plastic tubes)
1	pc.	Murray Tricyle (complete)
283	pcs.	Cig. Lighters "Champ"
12	pcs.	Gold plated necklace
36	pcs.	Gold plated bracelets
166	pcs.	Gold plated earrings (some w/ imitation pearls)

The two cases in question arrived in Manila on December 16, 1954 accompanied with a bill of lading and consular invoice describing the merchandise as "cycle parts".

When the goods arrived, petitioner secured a release certificate from the Central Bank for "2 cases parts of cycle", and filed an import entry for such articles. However, upon examination of the two cases which actually arrived, they were found to contain not cycle parts but complete tricycles, fancy jewelry, cigarette lighters, fountain pens, etc. as described above. Accordingly, they were ordered forfeited for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f), (i), (m)-3, (m)-4, and (m)-5 of the Administrative Code.

During the pendency of the case in the Bureau of Customs, the goods were released to petitioner upon the filing of a surety bond for ₱4,207.53 (FNS & ACI Bond No. 1966, dated June 16, 1955) to guarantee payment of the appraised value of the goods should the case be decided adversely against petitioner.

It is contended on behalf of petitioner that it made a correct and accurate declaration of the merchandise on the basis of the shipping documents; that there is no discrepancy in the commodity code classification of the merchandise involved; that said merchandise are not subject to seizure or forfeiture for the reason that they were erroneously shipped to petitioner; and that said merchandise are not subject to forfeiture for violation of Central Bank Circulars Nos. 44 and 45 because said circulars are void.

There is no question that the goods which arrived were not correctly declared or described in the shipping documents and in the import entry prepared and filed for and on behalf of petitioner. It is alleged that petitioner was informed in advance that the goods actually shipped to it by the shipper in New York were not the goods which were ordered, and yet after the goods arrived in Manila petitioner filed an import entry describing the goods as "2 cases parts of cycle." There was, therefore, an intentional misdeclaration. It having been established that the goods ordered were different from the goods which actually arrived, and are classified differently under the commodity classification of the Central Bank, the insistence of petitioner that "there is no discrepancy in the commodity classification of the merchandise involved" is difficult to understand.

The contention that said merchandise are not subject to forfeiture because they were erroneously shipped to petitioner deserves scant consideration. If, as alleged, the merchandise were erroneously shipped to petitioner, it should have insisted on the re-exportation thereof. However, it sought and actually secured the release of the goods from customs without a license to import the same and without the corresponding release certificate from the Central Bank. The forfeiture is, therefore, in order.

Finally, it is contended that Central Bank Circulars Nos. 44 and 45 are void so that the goods in question cannot be forfeited for violation of said circulars. The question has been foreclosed in Pascual v. Commissioner, G. R. No. L-10979, June 30, 1959; Commissioner v. Leuterio, G. R. No. L-9142, Oct. 17, 1959; see also James G. Blair v. Commissioner, C.T.A. No. 686, March 27, 1961.

The decision appealed from is affirmed, with costs against petitioner.

SO ORDERED.

Manila, January 15, 1962.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

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