REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

FARM IMPLEMENT MACHINERY CO.,
Petitioner,

- versus - C.T.A. CASE NO. 239

COMMISSIONER OF CUSTOMS,
Respondent.

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April 1, 1957

DECISION

This is a petition to review the decision on appeal of the respondent Commissioner of Customs in Seizure Identification No. 1691, affirming the decision of the Collector of Customs for the Port of Manila which ordered the forfeiture of 833 cases of semolina macaroni and semolina spaghetti for violation of Central Bank Circular No. 44, in relation to Section 1363 (f) of the Revised Administrative Code.

It appears from the records of the case that on July 10, 1954, there arrived at the Port of Manila on board the "SS VIGAN", Reg. No. 884, eight hundred thirty-three (833) cases of merchandise with commercial invoice No. M-503, dated June 15, 1954, of Thos. D. Stevenson & Sons, Inc., San Francisco, California (Exhibit "E") and consular invoice No. C9701, dated June 21, 1954 (Exhibit "C"). The Central Bank issued Central Bank Release Certificate Ref. No. 15480, dated July 2, 1954, (Exhibit "F") authorizing the release to petitioner of 833 cases of "semolina" under Commodity Code No. 040802-NEC.

Upon examination of the shipment, the Bureau of Customs classified the articles as macaroni and spaghetti falling under Commodity Code No. 040804-UI, as a consequence of which it was seized for alleged violation of Central Bank Circular No. 44, in relation to section 1363 (f) of the Revised Administrative Code. Pending the seizure proceedings, the importation was released to petitioner upon the filing of Surety Bond No. C-54/7708 of the South Sea Surety & Insurance Co., Inc. in the amount of ₱6,677.00. After said proceedings, the Collector of Customs for the Port of Manila decreed the forfeiture of the shipment in question for violation of Central Bank Circular No. 44, in relation to section 1363 (f) of the Revised Administrative Code. This decision having been affirmed by respondent Commissioner of Customs on December 17, 1955 (Exhibit "C"), petitioner filed the present appeal.

The only issue in this case relates to the proper classification of the articles in question.

Petitioner was granted a foreign exchange allocation by the Central Bank for the importation of "semolina" included within Commodity Code No. 040802-NEC of the Statistical Classification of Commodities, which embraces: -

> "Groats, semolina and cereals; flaked, pearled or prepared in a manner not elsewhere specified (including prepared breakfast foods)."

Upon examination by customs authorities of the articles imported by petitioner, the former classified the articles as macaroni and spaghetti under Commodity Code No. 040804-UI, covering:

> "Macaroni, spaghetti, noodles, vermicelli and similar preparations."

An analysis of samples of the subject importation made by Mr. Forencio Soliven, Head of the Department of Food Technology of the Institute of Science and Technology, disclosed that -

> "Sample A is SEMOLINA MACARONI while Sample A-I is SEMOLINA SPAGHETTI. Both are made of Semolina and are American and European Cereal food preparation." (Exhibit "A-1", p. 42, Customs Records)

The petitioner contends that the report of analysis of Mr. Soliven conclusively shows that the subject shipment consists of "semolina". Whether an article is classified as SEMOLINA MACARONI, or SEMOLINA SPAGHETTI, or simply SEMOLINA does not alter the fact that the articles is semolina. Thus, it argues that the importation was properly classified under Code No. 040802-NEC, and, therefore, should not have been forfeited.

The respondent, on the other hand, maintains that the articles in question are "macaroni" and "spaghetti" and, therefore, fall under Commodity Code No. 040804-UI of the Statistical Classification of Commodities, which is a more specific classification.

A cursory reading of the aforecited classifications shows that for "semolina" to fall under Code No. 040802-NEC, it should be "flaked, pearled or prepared in a manner not elsewhere specified". While the macaroni and spaghetti in question are made of semolina, yet they cannot justifiably be classified under the commodity code number authorized by Central Bank Release Certificate Ref. No. 15480. They are not flaked or pearled or prepared in a manner not elsewhere specified. On the contrary, they are prepared as macaroni and spaghetti of Commodity Code No. 040804-UI of the Statistical Classification of Commodities.

Finding the articles subject of the present seizure proceedings as falling squarely under Commodity Code No. 040804-UI, the said articles were brought into the Philippines in contravention of the foreign exchange license granted for the same, and as such were imported contrary to law. We are, therefore, of the opinion and so hold that the said articles were properly forfeited under Section 1363 (f) of the Revised Administrative Code, in relation to Central Bank Circular No. 44.

WHEREFORE, the decision of respondent is hereby affirmed. We decree the forfeiture of Surety Bond No. C-54/7708 of the South Sea Surety & Insurance Co., Inc. in the amount of ₱6,677.00 which was filed for the release of the importation in question, with costs against petitioner.

SO ORDERED.

Manila, April 1, 1957.

(Sgd.) ROMAN M. UMALI
Associate Judge

I CONCUR:

(Sgd.)MARIANO NABLE
Presiding Judge

Associate Judge Augusto M. Luciano did not take part.