REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

SERREE INVESTMENT CO.,
Petitioner,

- versus -   C.T.A. CASE NO. 778

COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from a decision of the Commissioner of Customs, affirming the decision of the Acting Collector of Customs of Manila, dated April 4, 1956, in denying the protest of the petitioner against the forfeiture of the potatoes and garlic in question.

The facts stipulated by the parties upon which this case has been submitted for decision are as follows:

> "1. That petitioner is the consignee of 500 packages of fresh potatoes imported from Hongkong which arrived in the Port of Manila on January 1, 1955 on board the SS 'Straat Bali', Reg. No. 2 (Entry No. 18);
>
> "2. That the petitioner is likewise the consignee of 120 packages of garlic imported from Hongkong which arrived in the Port of Manila on October 30, 1954 on board the SS 'Liberal', Reg. No. 1384 (Entry No. 86614-14);
>
> "3. That the shipments in question did not have any Central Bank Release Certificate submitted for which reason, they were seized by the Appraiser's Division of the Bureau of Customs for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Secs. 1363 (f) and 1250 of the Revised Administrative Code.

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"4. That ruling on the seizure and forfeiture proceedings, the Collector of Customs ordered the forfeiture of the aforementioned shipments in favor of the Government, from which ruling appeal was taken to the respondent Commissioner of Customs;

"5. That upon request, petitioner was allowed to redeem under protest the forfeited shipments as per orders of Collector of Customs dated January 8, 1955 and December 18, 1955, upon payment of the redemption values thereof in the amounts of ₱7,859.91 and ₱25,520.46, respectively;

"6. That thereupon, the petitioner filed a protest to test the validity of the redemption proceedings, which was denied by the Collector of Customs in its decision dated April 4, 1956;

"7. That respondent Commissioner of Customs in his decision dated March 22, 1960, sustained the rulings of the Collector of Customs mentioned in paragraphs 5 and 7 hereof;

"8. That the parties reserve their right to present additional evidence if they so desire."

The only issue raised in this appeal is whether or not the forfeiture of the merchandises in question for violation of Central Bank Circulars No.s 44 and 45 in relation to Sections 1363(f) and 1250 of the Revised Administrative Code is in order.

In a very recent decision, this Court held:

"This legal question is not of first impression. In previous cases (Pascual vs. The Commissioner of Customs, G.R. No. L-10979, June 30, 1959; Commissioner of Customs vs. Pascual, G.R. No. L-9836, November 18, 1959; and the Acting Commissioner of Customs vs. Leuterio, G.R. No. L-9142, October 17, 1959), which are similar to the cases at bar, the Supreme Court has consistently held the validity of Central Bank Circulars Nos. 44 and 45 on the basis of the violation of which imported merchandise were forfeited. The Supreme Court said:

> 'As already stated, Circulars Nos. 44 and 45 were issued by the Monetary Board within the scope of its powers. They were published in the Official Gazette in June 1953. Appellant failed to present to the Commissioner of Customs release certificates issued by the Central Bank or its duly authorized agent banks for the importation in question. The Commissioner of Customs may, therefore, seize them and order their forfeiture under the aforequoted provisions of the Revised Administrative Code. It is true that neither of the Circulars provide for the penalty of forfeiture. But since the importations in question were made without the necessary import license issued by the Monetary Board pursuant to Circular No. 45 and the release certificates issued by the Central Bank or its authorized agent bank in the prescribed form pursuant to Circular No. 44, they fall within the class of 'merchandise of prohibited importation' or merchandise 'the importation x x x, of which is effected x x x contrary to law' that the Commissioner of Customs may seize and order forfeited. To sustain the appellant's theory of the case would render nugatory the aim and purpose of the law when it authorizes the Central Bank to temporarily suspend or restrict the sale of foreign exchange to licensing during an exchange crisis in order to protect the international reserve and to give the Monetary Board and the Government time in which to take constructive measures to combat such crises.' (Pascual vs. Commissioner of Customs, _supra_; The Commissioner of Customs vs. Pascual, _supra_; Acting Commissioner of Customs vs. Leuterio, _supra_.)" (Que Hua Shirt Factory vs. Commissioner of Customs, C.T.A. Cases Nos. 739 & 753, January 11, 1962.)

There is nothing in the facts of the case at bar which would justify a departure from the afore-quoted decision. On the contrary, the facts of this case and the Que Hua Shirt Factory cases are strikingly similar in that, in both cases, the shipments were not covered by any Central Bank Release Certificate, for which reason they were seized and subsequently decreed forfeited.

The respondent's counterclaim for legal interest on the total amount of ₱33,378.37 from the date petitioner received a copy of his decision is hereby denied for lack of legal justification. The redemption value of the importations in the respective sums of ₱25,520.46 and ₱7,859.91 was paid by the petitioner to the respondent under Official Receipts Nos. 68660 dated December 18, 1954 and 01353 dated January 8, 1955, respectively, that is, long before respondent rendered the decision on March 22, 1960.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against the petitioner.

SO ORDERED.

Manila, February 14, 1962.

MARIANO NABLE
Presiding Judge

We concur:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge