REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE INTERNATIONAL
SURETY CO., INC.,
Petitioner,

-versus- C.T.A. CASE No. 736

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

D E C I S I O N

This is an appeal by the petitioner, as surety of the importer Rosol Dry Goods under Surety Bonds Nos. 563 and 564, both dated August 30, 1955, in the total amount of ₱247,952.15 for the release of the imported merchandise, from a judgment rendered by respondent dated December 11, 1959, affirming that of the Acting Collector of Customs of Manila declaring the imported goods together with the surety bonds above mentioned forfeited for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) and 1250 of the Revised Administrative Code. This case was submitted for decision on the pleadings of the parties and on the evidence of record.

The stipulated facts appearing in the record are as follows:

> That the shipment consisting of 87 bales of cotton textiles consigned to Rosol Dry Goods, which arrived at the Port of Manila (Pier 13) on board

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the S/S "Henrik", Reg. No. 968 on August 17, 1955, was declared under Entry No. 71545, series of 1955, and covered by Seizure Identification No. 3811. Said shipment is accompanied by bill of lading, the commercial invoice from Tah Shum Company in the amount of US$33,000.00 G&F, official receipt No. 32262, dated August 18, 1955, evidencing payment of estimated duties, sales tax and surcharge in the amount of ₱14,492.59;

That the shipment of 100 bales of plain cotton textiles consigned to Rosol Dry Goods, which arrived at the Port of Manila (Pier 13) on board S/S "Henrik", Reg. No. 968 from Hongkong on August 17, 1955, and was declared under Entry No. 71546, series of 1955, and covered by Seizure Identification No. 3812. Said shipment is accompanied by the bill of lading, the commercial invoice from Tah Shun Company in the amount of US$45,000.00 G&F, official receipt No. 32281, dated August 18, 1955, evidencing payment of estimated customs duties, sales tax and surcharge in the amount of ₱17,061.28;

That these two shipments are not covered by release certificates from the Central Bank or any of its authorized agent banks;

That they are not accompanied by consular invoices;

That these two shipments had been released to the claimant upon the filing of a surety bond.

The only issue raised is whether or not the two importations of textile goods covered by Seizure Identification Nos. 3811 and 3812, respectively, were validly forfeited for violation of Central Bank Cir-

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culars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code.

Reduced to its barest minimum, petitioner's contention is that the forfeiture of the aforementioned importations is illegal because Central Bank Circulars Nos. 44 and 45 are invalid.

Petitioner's contention is untenable. The issue raised is not of first impression. In a long line of decisions (Pascual v. Comm. of Customs, 105 Phil. 1039; Acting Comm. of Customs v. Estanislao Leuterio, 106 Phil. 1162, unrep.; Comm. of Customs v. Serree Investment Co., 108 Phil. 1; Comm. of Customs v. Eastern Sea Trading, G.R. No. L-14279, October 31, 1961; Comm. of Customs v. Santos, G.R. No. L-11911, March 30, 1962; Comm. of Customs v. Nepomuceno, G.R. No. L-11126, March 31, 1962; Leuterio v. Comm. of Customs, G.R. No. L-21800, June 22, 1968, and cases cited therein), our Highest Tribunal has consistently upheld the validity of said Central Bank Circulars Nos. 44 and 45 under the general grant of authority provided in Section 74, of Republic Act No. 265.

Since it is not disputed that the two shipments were not covered by release certificates from the Central Bank or from any of its authorized agent banks, and that they were not accompanied by the required consular invoices, it follows that the forfeiture of the goods in question is proper.

As regards the payment of the additional sum of ₱500.00 as penalty provided in each of the two bonds, or a total penalty of ₱1,000.00, we have ruled in Que Hua Shirt Factory vs. Commissioner of Customs, CTA Cases Nos. 739 & 753, January 11, 1962; Mendoza vs. Aseron, CTA Case No. 852, June 17, 1963; Mapa vs. Commissioner of Customs, CTA Cases Nos. 893 & 894, August 27, 1963; Lazatin vs. Commissioner of Customs, CTA Case No. 782, January 19, 1962, affirmed in G.R. No. L-19753, July 30, 1969; and De la Cruz vs. Commissioner of Customs, CTA Cases Nos. 980 and 1150, August 27, 1963, affirmed in G.R. Nos. L-23334 & 23451, February 29, 1968, that a demand for payment of the penalty provided in a bond cannot be enforced until a final judgment is rendered ordering forfeiture. In the present case, there is as yet no final judgment of forfeiture. Consequently, no liability for said penalty has accrued under said bonds.

WHEREFORE, finding no error in the decision of respondent dated December 11, 1959, the same is hereby affirmed except with respect to the stipulated penalty. Petitioner is hereby ordered to pay to respondent Commissioner of Customs or his authorized representative the total amount of ₱247,952.15. With costs against petitioner Philippine International Surety Co., Inc.

SO ORDERED.

Quezon City, October 31, 1970.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge