REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANDRES E. LAZARO,
Petitioner,

versus C.T.A. CASE No. 1637

THE COMMISSIONER OF
CUSTOMS,
Respondent.
x- - - - - - - - - - - -x Feb. 28/67

D E C I S I O N

This is an appeal from the decision of respondent dated February 7, 1962, affirming that of the Collector of Customs in Seizure Identification No. 1912 decreeing the forfeiture of seventeen (17) packages of various merchandise in favor of the Government for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code.

The facts of the case, as stated in the stipulation of the parties at the hearing before the Collector of Customs, are as follows:

> "1. That the various merchandise consigned to Andres E. Lazaro arrived in the Port of Manila on September 8, 1954, on board the S/S 'Songkla' from Hongkong, Reg. No. 1172, covered by Seizure Identification No. 1912, and declared in Entry No. 72288, series of 1954; which I request that it be marked as Exhibit 'A' for the prosecution, together with all the pertinent shipping documents as the Bill of Lading, Commercial Invoice and Official Receipt No. 51712 in the amount of ₱825.00 representing payment of estimated duties and estimated sales tax, and another Official Receipt No. 11256 in the amount of ₱12.27 representing additional payment of estimated duties and advance sales tax;

> "2. That the value of the merchandise is $1,543.09;
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> "3. That the merchandise did not have any consular invoice and it was released under bond;
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> "4. That the merchandise was considered by the Appraisers' Division as regular importation except for the fact that it was not covered by any consular invoice or bank release certificate, hence it was seized for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code." (pp. 44-45, Customs rec.)

This case was submitted on the basis of the pleadings and customs records.

The only issue raised in this appeal is whether or not the forfeiture of the merchandise in question and/or the bond is legal.

Petitioner assails the validity of the decree of forfeiture on the ground that Circulars Nos. 44 and 45 of the Central Bank have been repealed by Central Bank Circular No. 133, thereby extinguishing any liability that had been incurred under the former circulars. It is also argued that Circular No. 45 which require a prior license for no-dollar imports has been repealed by Section 6 of Republic Act No. 1410.

The issue raised is not new, the same having been settled by the Supreme Court in previous similar cases. In the case of the petitioner herein (Lazaro vs. Commissioner of Customs, G.R. Nos. L-21790 & L-21794, Dec. 24, 1965) which involved the same question, it was held:

> "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.
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> "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:
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> > '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

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[1] Serree Investment Company v. Commissioner of Customs, L-21217, Nov. 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.

> governing transactions in foreign exchange not inconsistent with the provisions of this Circular, 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)"

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

SO ORDERED.

Quezon City, February 28, 1967.

R. M. Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge