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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PEDRO A. MANACSA,
Petitioner,

-versus- C.T.A. CASE No. 1574

THE COMMISSIONER OF
CUSTOMS,
Respondent.
x- - - - - - - - - - - -x Feb. 28/63

D E C I S I O N

This is an appeal by petitioner from the decision of respondent dated September 9, 1954, affirming that of the Acting Collector of Customs for Manila dated May 24, 1955, in Customs Case No. 586 (Seizure Identification No. 1982) decreeing the forfeiture of the subject importation and/or payment in cash to the Bureau of Customs of the sum of ₱8,967.77 representing the appraised value of the merchandise covered by a surety bond (CICO No. 2944) dated September 28, 1954. This case was submitted for decision on the basis of the Customs records.

The undisputed facts, as stipulated by the parties, are as follows (see pp. 46-47, Customs Record):

> "1. That the various merchandise consigned to Pedro A. Manacsa arrived at the Port of Manila from Hongkong on September 23, 1954 per the s.s. 'Hermod' under Reg. No. 1230, and declared under Entry No. 75803, series

of 1954;

"2. The pertinent shipping documents covering the said shipment are (a) the bill of lading; (b) the commercial invoice; and (c) Official Receipt No. 54030, dated September 25, 1954, in the amount of ₱1,627.17 covering estimated duties and sales tax, No. 54307, dated September 28, 1954, in the amount of ₱88.45 covering additional sales tax, and No. 54280, dated September 28, 1954, in the amount of ₱14.10 covering additional duty and sales tax;

"3. That the merchandise was released to the claimant herein under bond;

"4. That the value of subject merchandise is $2,676.37; and

"5. That the subject merchandise is not covered by any release certificate and it has not consular invoice, hence, it was ordered seized for violation of Central Bank Circular Nos. 44 and 45 in relation to Sections 1363(f) and 1250 of the Revised Administrative Code."

The only issue raised by the parties is whether or not Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133.

The issue is not of first impression. In previous cases of similar or analogous issue (Pascual v. Comm. of Customs, G.R. No. L-10979, June 30, 1959; Acting Comm. of Customs v. Estanislao Leuterio, G.R. No. L-9142, October 17, 1959; Comm. of Customs v. Serree Investment Co., G.R. No. L-12007, May 16, 1960; 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; Serree Investment Co., v. Comm. of Customs, G.R. No. L-19564, November 28, 1964; Serree Investment Co., v. Comm. of Customs, G.R. No. L-21217, November 29, 1965; and Andres E. Lazaro v. The Comm. of Customs, G.R. No. L-21790 and L-21794, December 24, 1965; Bienvenido Capulong v. The Acting Comm. of Customs, G.R. No. L-22990, May 19, 1966) the Supreme Court has upheld the validity of Central Bank Circulars Nos. 44 and 45, and rejected the theory of their repeal by Central Bank Circular No. 133. In the case of Bienvenido Capulong v. The Acting Comm. of Customs, _supra_, the Supreme Court, reiterating its previous ruling in similar cases involving the same issue, held:

> "Petitioner claims that the Court of Tax Appeals erred in declaring the forfeiture of the articles in question merely because it violates Central Bank Circulars Nos. 44 and 45 considering that said circulars do not provide for the penalty of forfeiture in case of violation of their provisions. But this question is now a settled matter in view of the several decisions rendered by this Court sanctioning the forfeiture of merchandise imported in violation of said Circulars Nos. 44 and 45. This Court said that these circulars should be correlated with Section 1363 of the Revised Administrative Code which

authorizes the forfeiture of any merchandise of prohibited importation or of any the importation of which is effected contrary to law, as may be gleaned from the following portion of our decision:

> '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 crisis.' (Pascual v. Commissioner of Customs, L-10979, June 30, 1959; See also Venancio Tonk Tok v. Commissioner of Customs, L-11947, June 30, 1959; People v. Que Po Lay, 50 O.G., No. 10, p. 4800)

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"Petitioner also contends that the merchandise in question cannot be legally forfeited under Central Bank Circulars Nos. 44 and 45 because these circulars have already been repealed by Central Bank Circular 133. This contention is without merit. Central Bank Circular 133 has not exactly repealed Central Bank Circulars Nos. 44 and 45 but rather it reenacted them when it provided therein that all existing regulations not inconsistent with the circulars are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular 133 have a common purpose - which is to require the presentation of a release certificate from the Central Bank before any importation may be made to the Philippines. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come into the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long-drawn financial crisis in the country."

WHEREFORE, finding no error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, February 28, 1967.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge