REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Y. B. COMMERCIAL,
Petitioner,

- versus - C.T.A. CASE NO. 2465

THE ACTING COMMISSIONER OF
CUSTOMS,
Respondent.

12/27/74

x - - - - - - - - - - - - - x

D E C I S I O N

This is a petition to review the decision of respondent, dated November 27, 1972, affirming that of the Collector of Customs of Manila forfeiting 700 cases of pork luncheon meat for alleged violation of Central Bank Circular No. 289, in relation to Section 2530(f) of the Tariff and Customs Code and Section 2530 (M-3, 4 and 5) of the same Code.

The records show that on March 20, 1972, petitioner bought from Unitrade, Inc. of Dumaguete City 700 cases of pork luncheon meat at ₱55.00 per case, or at a total price of ₱38,500.00. Each case contained 24 tins. The said 700 cases of pork luncheon meat were shipped to petitioner per the M/V FATIMA which arrived in Manila on March 21, 1972. Upon arrival in Manila, however, the shipment was seized and seizure proceeding was instituted against the goods for alleged violation of

Central Bank Circular No. 289, in relation to Section 2530, pars. (f) and (m), of the Tariff and Customs Code.

After hearing, the Collector of Customs of Manila ordered the forfeiture of the seized merchandise on the following grounds:

> After careful consideration of the facts and evidences presented, it would seem improbable that subject 700 cases pork luncheon meat have been lawfully imported. The claimant's contention that the said shipment was originally imported and passed through the Cebu Customhouse under Entry No. 4178, in which customs duty and taxes were paid by the original importer, Unitrade Branch of Cebu City, from whom they were purchased by the claimant, cannot be given credence, since a perusal of said entry would readily show that of the 521 cases declared therein only 34 cases correspond to luncheon meat canned goods. Such disparity only proves that the subject shipment cannot be the same as the one claimed to have been imported at Cebu. Moreover, the subject shipment consist of luncheon meat which falls under the UC category of the Central Bank Commodity Code Classification and is a banned item which could not have been imported without prior authority from the Central Bank which the claimant failed to present to rebut the imputation. Thus, subject shipment is liable to forfeiture. (S. I. No. 12592, August 7, 1972.)

This finding of the Collector of Customs was sustained by respondent Commissioner of Customs in his decision of November 27, 1972.

It appears, however, that the 34 cases of pork luncheon meat imported by Unitrade, Inc. sometime in 1969 were in big cases or crates, each of which contained 24 smaller cases, so that the said 34 big cases contained 816 smaller cases, each containing 24 tins. The import invoice value of the 34 cases of pork luncheon meat imported by Unitrade, Inc. was $80.00 per case (see Exh. B), while the 700 cases sold to petitioner were bought by the latter at ₱55.00 per case (see page 42, CTA rec.), which indicates that the cases of pork luncheon meat involved in this case are much smaller than the 34 cases originally imported by Unitrade, Inc. Clearly, the 700 small cases of pork luncheon meat sold by Unitrade, Inc. to petitioner could have been part of the 34 big cases imported in 1969 on which the corresponding taxes and duties were duly paid. This fact has been established both by oral and documentary evidences which has not been denied or controverted by respondent.

As regards the claim of respondent that importation of pork luncheon meat is prohibited, unless authorized by the Central Bank, pursuant to Circular No. 289 of said Bank, it is enough to state that the importation of the 34 big cases of pork luncheon meat was made in 1969, while the said Circular took effect only on February 21, 1970, so that it could not apply to importations effected prior to that date.

IN VIEW OF OUR FINDING, that the 700 cases of pork luncheon meat in question were legally imported from abroad, and the corresponding duties and taxes duly paid prior to the effectivity of Circular No. 289 of the Central Bank which prohibits importation of such goods, the decision appealed from must be, as the same is hereby, reversed. No. costs.

SO ORDERED.

Quezon City, December 27, 1974.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

/dma