lib.

SERREE INVESTMENT COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 338

COMMISSIONER OF CUSTOMS,
Respondent.

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

July 16, 1958

D E C I S I O N

This is an appeal from the decision of respondent Commissioner of Customs affirming that of the Collector of Customs of the Port of Manila which decreed the forfeiture of "2 Cases Plastic Ware (toys and games)" and "1 Case Pager Printed matters".

The merchandise in question arrived at the Port of Manila from Hongkong on October 8, 1954 on board the S/S PASADENA, and were declared in Entry No. 79817. Claiming that the importation was made on a no-dollar-remittance basis, petitioner did not secure a release certificate from the Central Bank, or from any of its authorized agent banks, as required by Central Bank Circulars Nos. 44 and 45. Seizure proceedings were, therefore, instituted against said merchandise (Seizure Identification No. 2049) for violation of said Circulars in relation to Sections 1363(f) and 1250 of the Administrative Code. Meanwhile, the importation in question was released upon the filing of a surety bond pending seizure proceedings.

It is the contention of petitioner that Central Bank Circulars Nos. 44 and 45 are null and void in so far as they sought to regulate importations of merchandise from abroad which involved no-dollar remittance. The Collector of Customs of Manila apparently admits that the importation did not involve dollar remittance. However, sustaining the validity of the Central Bank circulars, he decreed the forfeiture of said merchandise in a decision rendered on March 20, 1956.

> "As regards the contention of the counsel for the herein claimant to the effect that Central Bank Circulars No. 44 and 45 are null and void by virtue of the passage of Republic Act No. 1410, it may be stated herein that the question of validity of the aforesaid circulars is now pending resolution in the Supreme Court. Unless these Central Bank Circulars are held invalid, it is the stand of this Office that said circulars have the force and effect of law, notwithstanding the passage of Republic Act No. 1410, which in Section 3 thereof provides 'that goods and commodities in transit or 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.' The subject importation was effected on October 8, 1954, which was long before Republic Act No. 1410 took effect (September 10, 1955)." (Pp. 1-2, Decidion of Coll. of Customs of Manila, March 20, 1956).

On appeal, respondent Commissioner of Customs sustained the stand of his subordinate and affirmed the latter's decision.

> "This Office has consistently held in a long line of decisions that before the enactment of Republic Act No. 1410, Central Bank Circulars Nos. 44 and 45 have the force and effect of the law

> and were applicable to all importations, with or without dollar remittance. And as those circulars are a part of the Customs Law pursuant to Section 1419 of the Revised Administrative Code, their violation necessarily makes the subject importation liable to forfeiture under Section 1363(f) of the afore-mentioned Code." (Page 2, Decision of Com. of Customs, November 27, 1956.)

The fact that the importation in question did not involve dollar remittance is therefore established. Consequently, we find no difficulty in resolving the issue whether or not the importation in question was validly forfeited under Section 1363 (f) of the Administrative Code, in relation to Central Bank Circulars Nos. 44 and 45.

The instant case is a companion case of C.T.A. Case No. 227 involving the same parties, which was decided by this Court on January 5, 1957. In that case, the merchandise involved were imported by petitioner from the same shipper in Hongkong under the same circumstances as in the instant case. Both importation arrived in Manila on the same boat on October 8, 1954. In C.T.A. Case No. 227, we expressed the following opinion:

> "We have already held that Central Bank Circulars Nos. 44 and 45, in so far as they sought to regulate importations involving no-dollar remittance, are void. Accordingly, articles imported from abroad involving no-dollar remittance can not be legally forfeited under Section 1363(f) of the Administrative Code for violation of said circulars. (Leuterio v. Commissioner of Customs, C.T.A. No. 29, April 18, 1955; Nepomuceno v. Commissioner of Customs, C.T.A. No. 122, July 26, 1956; Auyong

DECISION -
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Hian v. Commissioner of Customs, C.T.A. No. 219, October 31, 1956; Brillo v. Commissioner of Customs, C.T.A. No.176, November 14, 1956; Santos v. Commissioner of Customs, C.T.A. No. 235, December 22, 1956.)"

We find no reason for deviating from the views expressed in said C.T.A. Case No. 227.

The decision appealed from is reversed, and the surety bond filed by petitioner in this case is hereby cancelled. No costs.

SO ORDERED.

Manila, July 16, 1958.

R M Umali
ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

Reversed in G R No L-14274, Nov. 29, 1960.