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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE ALLIED ENTERPRISES CORPORATION, ARMSTRONG ENTERPRISES, REMAL ENTERPRISES, TYREMART INCORPORATED, and ALPCO INDUSTRIAL COMPANY,
Petitioners,

- versus - C.T.A. CASE NO. 4634

COMMISSIONER OF CUSTOMS,
Respondent.
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R E S O L U T I O N

On July 24, 1991 Petition for Review of the decision of the Commissioner of Customs dated June 18, 1991 was filed by petitioners.

Respondent Commissioner of Customs on September 11, 1991, however, filed Motion to Dismiss the Petition for Review on the ground that the petition was filed out of time. Respondent alleges, in substance, that on June 20, 1991, copy of the Commissioner's decision, had already been received by Atty. Nilda A. Torrevillas as evidenced by her handwritten acknowledgment of receipt of the decision in the Commissioner's Record Book; that the petitioners are supposed to have only until July 22, 1991 within which to file the subject petition and none had been filed; that the said Record Book had been borrowed by a man on July 23, 1991; and that on the following day, Jovita Q. Manzano, receiving clerk, noticed that an alteration had been made in the handwritten acknowledgment in the Record Book in which the date June 20, 1991 had been altered to June 28, 1991, by the changing of the number "0" to "8" in the number "20" of the month of June in order to make it appear as "28" in said date. This incident and other observations are recounted in an affidavit executed by Jovita Q. Manzano on July 24, 1991 (Annex "A" of the Motion to Dismiss, pp. 50-51, C.T.A. Records) and corroborated by the affidavit of Atty. Magdalena R. Soriano, Chief, Appellate Division, Legal Service, Bureau of Customs on August 22, 1991 (Annex "B").

Petitioner's Opposition to the Motion to Dismiss disputes the foregoing allegations of respondent by stressing that Atty. Manuel M. Hechanova is the only counsel of record of petitioners, having singly filed and signed all the pleadings below; that Atty. Nilda A. Torrevillas denies having entered any appearance as collaborating counsel nor as joint counsel for the petitioners during the administrative proceedings. Atty. Nilda A. Torrevillas further avers that "while it is true that the undersigned counsel got a copy of the decision on June 20, 1991, she actually dated her receipt thereof as June 28, 1991 for the simple reason that she was not then the counsel of record xxx, nor a collaborating counsel of Atty. Manuel M. Hechanova and neither was she the duly authorized representative of the petitioners as she was only requested by the sister of the manager of Remal Enterprises, one of the (herein) petitioners, to verify if there was already a decision in the office of the Commissioner of Customs." (Opposition to the Motion to Dismiss, pp. 69-70, C.T.A. Records).

Based on the facts of the case, particularly considering that Atty. Nilda A. Torrevillas admits to actually receiving a copy of the decision on June 20, 1991, prescription had already overtaken the case for petitioners when they filed their case on July 24, 1991. It is unavailing for petitioners to argue that Atty. Nilda A. Torrevillas was not then counsel of record when she received copy of the decision. The facts show that upon receipt of the decision, Atty. Nilda A. Torrevillas signed on the Record Book "Received copy xxx Remal Ent., Phil. Allied, Armstrong, Tyremart, Alpco" and this connotes that she was acting for and in behalf of petitioners. This is also contrary to her allegation that she secured the copy of the decision only for Remal Enterprises.

Ordinarily, under the rules of agency, the acts of an unauthorized person, or an agent who acts beyond the scope of his authority may not be taken against the principal (Article 1910 Civil Code). Here, however, the subsequent preparation and signing of the petition for review by Atty. Nilda A. Torrevillas can be taken to mean as an implied ratification by her principals of her previous act of receiving the decision on their behalf. (Article 1910, **supra**). Her principals, the petitioners in this case, are now estopped from denying this authority she exercised.

The principle of estoppel mandates that when one party is led to believe some fact, through the representation of the other party, then such fact is rendered conclusive upon the person making the representation and cannot be denied against the person relying thereon. (Art. 1431, **supra**).

Thus, where the decision of the Commissioner of Customs was received by petitioners on June 20, 1991, they only had until July 20, 1991 to file an appeal with this Court. Since the Petition for Review was received by the Court only on July 24, 1991 the same should be considered as having been filed beyond the reglementary period and cannot anymore be entertained.

ACCORDINGLY, the Motion to Dismiss the petition for review is **GRANTED** on the ground that the petition had been filed beyond the prescriptive period as provided for in Section 11 of Republic Act No. 1125.

SO ORDERED.

Quezon City, Metro Manila, July 7 1992.

STELLA DADIVAS-FARRALES
Acting Associate Judge

ERNESTO D. ACOSTA
Presiding Judge