REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANDRES E. LAZARO,
Petitioner

versus

CTA CASE NO. 1486

THE COMMISSIONER OF CUSTOMS,
Respondent.

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

# D E C I S I O N

Petitioner appeals from the decision of the Acting Commissioner of Customs dated February 2, 1962, affirming that of the Collector of Customs for the Port of Manila which requires petitioner to pay in cash the total amount of ₱27,306.70.

The facts of the case are not disputed, the parties having entered into a stipulation of facts during the hearing of the case before the Collector of Customs.

On September 23, 1954, various merchandise consigned to petitioner arrived at the Port of Manila from Hongkong, on board the S/S "HERMOD." The importations were declared in Entry Nos. 75796, 75789, 75849, 75841 and 75842 all series of 1954. Since these shipments were not covered by release certificates from the Central Bank, the Collector of Customs seized them for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code. The merchandise were however released under Surety Bond No. 075, dated Sept. 25, 1954, in the amount of ₱7,414.00 issued by Pioneer Insurance and Surety Corporation; Surety Bond No. 126, dated Sept. 27, 1954,

30

in the amount of ₱540.00 issued by the Philippines International Surety Co., Inc.; Surety Bond No. 127, dated Sept. 27, 1954, in the amount of ₱9,750.00 issued by the Philippines International Surety Co., Inc.; Surety Bond No. 2943, dated Sept. 28, 1954, in the amount of ₱6,950.00 issued by the Century Insurance Co., Inc. and Surety Bond No. 54/4553, dated Sept. 28, 1954, in the amount of ₱2,650.00 issued by the Paramount Surety and Insurance Co., Inc. (the sum total of the bonds is ₱27,306.70) to answer for the redemption value of the goods in case of forfeiture to the Government.

After notice and hearing, the Collector of Customs for Manila rendered a decision dated May 9, 1955 decreeing the forfeiture of the sum of ₱27,306.70 covered by the said bonds in favor of the Government. On appeal of petitioner to the Acting Commissioner of Customs, the latter affirmed the said decision on February 2, 1962. Hence this appeal.

Subsequent to the filing of respondent's answer, petitioner moved to postpone the hearing of this case until the Supreme Court shall have decided the case of Andres E. Lazaro v. The Commissioner of Customs, G.R. Nos. L-21790 and L-21794, wherein the same issues as those here involved were raised. On December 24, 1965, the Supreme Court rendered its decision in the Lazaro case.

The main issue in this appeal boils down to whether

(31)

or not the forfeiture of the merchandise and/or the bonds is legal.

Petitioner assails the validity of the forfeiture proceedings on the ground that Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133. It is also argued that Circular No. 45 which requires a prior license for no-dollar imports under penalty of forfeiture has been repealed by Section 6 of Republic Act No. 1410. In the case of Andres E. Lazaro v. The Commissioner of Customs, supra, which involves the same issue, 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.
>
> "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:
>
> > '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.'

---

[1]Serree Investment Company v. Commissioner of Customs, L-21217, November 29, 1965 and cases cited therein.

3V

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 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)"

(See also Chan Kian v. The Collector of Customs of Manila, G.R. No. L-20803, Jan. 31, 1966; Capulong v. Aseron, G.R. No. L-22989, May 14, 1966, and cases cited therein.)

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

SO ORDERED.

Quezon City, August 9, 1966.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge

---

[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.