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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

C. B. ANTOLIN ENTERPRISES,
PACITA CURA DE LARA,
NATIONAL TRADERS, INC.,
PRUDENTIAL BANK & TRUST CO.,
UNITED GLASSWARE STORE,
TEOFILA C. DAVID, FLAVIANA
CAYETANO, LLANES & CO.,
PACIFIC DEPARTMENT STORE,
EASTERN GLASSWARE, and
WESTERN PACIFIC CORPORATION,
Petitioners,

January 14, 1965

\- versus -

C. T. A.
CASE NO. 1435

THE COMMISSIONER OF CUSTOMS,
Respondent.
x- - - - - - - - - - - - - - - -x

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs dated June 5, 1963 affirming the order of the Collector of Customs of Manila requiring the petitioners and their sureties to pay, jointly and severally, to the Bureau of Customs the amounts of the surety bonds filed for the release of assorted tin hollowers covered by Seizure Identification Nos. 1604, 1610, 1631, 1634, 1646, 1654, 1685, 1701, 1703, 1785, 1803, 1807, 1809, 1810 and 1812 for the reason that the importations were effected in violation of Central Bank Circular No. 44, in relation to Section 1363 (f) of the Revised Administrative Code.

During the joint hearing of the above-mentioned seizure cases in the Bureau of Customs, the parties agreed on the following facts:

> "1. That the subject importations are covered by release certificates issued by different agent banks of the Central Bank describing the articles comprising them either as tin containers or tin hollowares under commodity code No. 690977 EP;
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> 2. That the subject shipments upon examination were believed by the customs examiners to be waste cans, tin trays, tin can sets, bread and cake boxes, refuse cans, and lunch boxes, which should be classified under commodity code No. 690955 NEC calling for <u>household utensils of base materials other than iron, steel and aluminum, not elsewhere specified</u>;
>
> 3. That the shipping documents supporting the importations in question are all in order;
>
> 4. That the sales tax and other charges due on the subject shipments have been duly paid;
>
> 5. That the subject articles are duty free being United States articles;
>
> 6. That the shipments in question have been released to their respective owners under surety bonds; and
>
> 7. That in view of the fact that the articles in question should be classified under commodity code No. 6909555 NEC instead of under code No. 690977 EP, as approved by the different agent banks, which issued the release certificates covering the subject shipments, the articles in question were ordered seized for alleged violation of Central Bank Circular No. 44 in relation to Section 1363 (f) of the Revised Administrative Code." (See pp. 000361-62 Cus. rec.)

After hearing, the Collector of Customs of Manila ordered the petitioners and their sureties to pay, jointly and severally, to the Bureau of Customs the full amounts of the surety bonds filed for the release of the importations, which ruling was sustained by the Commissioner of Customs. From the latter's decision, the petitioners appealed to this Court and have raised the following issues for our consideration.

1. Whether or not this Court has jurisdiction over all the fifteen seizure cases which are the subject matter of this appeal; and

2. Whether or not the importations in question are subject to forfeiture for violation of Central Bank Circular No. 44, in relation to Section 1363(f) of the Revised Administrative Code.

Respondent alleges that the petitioners' appeal from the decision of the Collector of Customs in the above-mentioned seizure cases to the Commissioner of Customs was filed beyond the reglementary period of 15 days prescribed by law.

An examination of the notice of appeal filed by counsel for the petitioners with the Collector of Customs of Manila discloses that the date when counsel received the Collector's decision of April

20, 1961 has been altered to October 31, 1961. The said date originally appears to be October 30, 1961. The evidence of record does not indicate who made the alteration. Granting however that, as altered, the Collector's decision was received on October 31, 1961, the appeal to the Commissioner of Customs was still perfected on time inasmuch as the same was filed on the last day of the statuory fifteen day period. Similarly, if we take it that the Collector's decision was received on October 30, 1961, the appeal was still filed on time because the 15th day fell on November 14, 1961, which was election day, and therefore, a legal holiday. When the last day for doing an act required by law falls on a holiday, the act may be done on the next succeeding business day (Sec. 31, Revised Administrative Code). In the case at bar, the appeal to the Commissioner was filed on November 1 , 1961, the day following election day. Consequently, as aforesaid, the appeal was filed on time.

Parenthetically, it may be stated that a cursory reading of Paragraph VII of Customs Administrative Order No. 226 dated December 3, 19 7, quoted below, would seem to indicate that in counting the fifteen-day period of appeal a Sunday or a legal holiday would have to be included even if it is the last day. Such a strained interpretation would of course run counter to the express provision of Section 31 of the Revised Administrative Code, supra, which can not be changed or amended by a mere administrative order. At any rate, the fifteen-day period within which a person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may appeal to the Commissioner of Customs is now governed by Section 2313 of the Tariff and Customs Code and nothing is said about the inclusion of Sundays and legal holidays in the counting of such period. The rule therefore is, as contained in Article 13 of the New Civil Code, in computing a period, the first day is excluded and the last day included, but when the last day for doing an act required by law falls on a holiday, such act may be done on the next succeeding business day.

But it is respondent's theory that, even granting *arguendo* that the petitioner's appeal was filed within the reglementary period prescribed by law, nevertheless, the failure of the petitioners to comply with the requirements of Paragraph VII of Customs Administrative Order No. 226 dated December 3, 1957, which reads as follows:

> "The person aggrieved by the decision or action of a collector of customs in any matter presented upon protest or by his action in any case of seizure pursuant to section 2312 of the Tariff and Customs Code of the Philippines may give a written notice to the Collector of Customs of his desire to have the matter reviewed by the Commissioner of Customs.

> Such notice of appeal must be filed in triplicate within fifteen (15) days, including Sundays and legal holidays, from receipt by the aggrieved party or his authorized representative of written notification of the action or decision sought to be reviewed. The notice of appeal shall be subject to a filing fee of ₱10 in customs stamp and shall, together with the records of the case, be forthwith transmitted by the Collector to the Commissioner of Customs."

made the decision of the Collector final, executory and appealable.

From the above-quoted administrative order, it can be gathered that in order to perfect an appeal to the Commissioner of Customs, the following requisites should be complied with, to wit: (1) filing of a written notice of appeal within fifteen days from the receipt of the Collector's decision or action in any case of ~~seizure~~ protest and (2) payment of the filing fee of ₱10.00 in customs stamps. As has been shown above, the petitioners were able to file their written notice of appeal to the Commissioner of Customs within the reglementary period of fifteen days. However, they paid a filing fee of only ₱10.00 for all of the fifteen seizure cases covered by this case.

To our mind, this failure to comply fully with Paragraph VII of Customs Administrative Order No. 226 is fatal in the sense that we cannot take cognizance of Seizure Identification Nos. 1610, 1631, 1634, 1646, 1654, 1685, 1701, 1703, 1785, 1803, 1807, 1809, 1810 and 1812. It seems already well-settled that the payment of the full amount of the docket fee is an indispensable step in the perfection of an appeal (Lazaro vs. Endencia, 57 Phil. 552), and upon failure of the appellant in a civil case to pay the said fee, the appeal is deemed abandoned (Salavaria vs. Albindo, 39 Phil. 922; Alvero vs. de la Rosas, 76 Phil. 428; Ampang Tan vs. Commissioner of Customs, C.T.A. Case No. 92, April 2, 1956). While it is true that all the seizure cases covered by this appeal were jointly heard in the Bureau of Customs and only one (1) decision was rendered thereon by the Collector (and there is an allegation but denied by respondent that the amount of the customs stamps attached to the notice of appeal was assessed and prescribed by a clerk in the office of the Collector of Customs), the law on the matter is so clear that a fee of P10.00 in customs stamps should be paid for each and every seizure case. As far as pertinent hereto, Section 2310 of the Tariff and Customs Code provides as follows:

x x x x x

> "The scope of a protest shall be limited to the subject matter of a single adjustment or other independent transaction; but any number of issue may be raised in a protest with reference to the particular item or items constituting the subject matter of the protest.
>
> "'Single adjustment', as hereinabove used, refers to the entire content of one liquidation, including all duties, fees, surcharges or fines incident thereto."

That an appeal must be limited to the subject matter of a single adjustment is in our opinion unquestionable. Under the circumstances, the filing of the notice of appeal and the payment of the ₱10.00 fee should be considered as relating only to one liquidation, that is, to the case of C. B. Antolin Enterprises, Seizure Identification No. 1604, the appeal of which was seasonably perfected. Consequently, no appeal is deemed to have been filed by the other petitioners, and as far as they are concerned, the portion of the decision of the Collector of Customs of Manila pertaining to them has become final and executory.

Having thus ruled on the jurisdictional issue, we will now consider whether or not the importations in the case of C. B. Antolin Enterprises are subject to forfeiture for violation of Central Bank Circular No. 44, in relation to Section 1363(f) of the Revised Administrative Code. From the records, it appears that the release certificate covering the imported articles classified them under Commodity Code No. 690977 EP of the Statistical Classification of Commodities, which states as follows:

"EP	690977	Cask, drums, cans, boxes and similar containers, tin

x x x x x x x

Upon examination by Customs authorities, however, it was ascertained that the articles in question consisted of 45 cartons of tin dust pans and trays. Accordingly, the Bureau classified them under Code No. 690955 NSC, which reads:

> "Household utensils of base metals, except iron, steel and aluminum."

There is no specific or definite code number covering tin dust pans and trays. Since these commodities were household articles and were made of tin, we believe that they appropriately fall under Code No. 690955 NSC. Not having been covered by the release certificate issued by the agent bank, they are subject to forfeiture for violation of Central Bank Circular No. 44, in relation to Sec. 1363 (f) of the Revised Administrative Code (Po Eng Trading vs. Com. of Customs, G. R. No. L-10508, Nov. 29, 1960; Farm Implement Machinery Co. vs. Com. of Customs, G. R. No. L-12613, May 30, 1962).

WHEREFORE, the decision appealed from is affirmed with regard to C. R. Antolin Enterprises (Seizure Identification No. 1604); and Seizure Identification Nos. 1610, 1634, 1646, 1654, 1685, 1701, 1703, 1785, 1803, 1807, 1809, 1810, and 1812 are dismissed for lack of jurisdiction.

DECISION -
C.T.A. CASE NO. 1435

Consequently, petitioner C. B. Antolin Enterprises and the Paramount Surety and Insurance Co., Inc., are hereby ordered to pay, jointly and severally, to the Bureau of Customs the sum of ₱1,289.02. With costs against petitioners.

SO ORDERED.

Quezon City, Philippines, January 14, 1965.

AUGUSTO M. LUCIANO
Acting Presiding Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge