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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PROCTER & GAMBLE PHILIPPINES
MANUFACTURING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 2803

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

11/16/88

D E C I S I O N

Assailed in this petition for review is the decision of respondent Commissioner of Customs dated March 12, 1976 affirming the decision of the Collector of Customs of the Port of Manila, dated December 13, 1974 which dismissed the protests filed by petitioner Procter & Gamble Philippines Manufacturing Corporation against the assessment and collection of additional customs duties and taxes plus surcharges on importations of trichlorocarbanilide.

The facts, together with the issue, as succinctly stated by respondent Commissioner are as follows:

> *Records of this case reveal that three (3) shipments of Trichlorocarbanilide, to wit: 50 drums ex S/S "Galli" with Reg. No. 1468; 60 drums ex S/S "Phil. Rizal" with Reg. No. 1948; and 60 drums ex S/S "Tung Ching" with Reg. No. 2267, consigned to Procter & Gamble Phil. Mfg., arrived at the Port of Manila on various dates. Upon arrival, the subject shipments were declared at the Port of Manila under Import Entry Nos. 78279, 97127 and 114807, all series of 1969, respectively. In the said import entries, the declared value of one (1) pound of Trichlorocarbanilide was $2.04.*
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> *In the process of appraisal of the said entries for the purpose of determining the corresponding duties and taxes due on the shipments, the declared value in Import Entry No. 78279 was increased to $2.25 per pound by the assigned Customs Appraiser, as well as in Import Entry Nos. 97129 and 114807 wherein the declared values of $2.04 per pound were increased to $2.90 and $2.25, respectively. As a result of the appraisals made by the Customs Appraisers concerned, discrepancies in customs duties and taxes, together with surcharge, resulted in the amounts of P751.00 (Entry 78279), P5,541.00 (Entry 97129) and P912.00 (Entry 114807) which were paid by the herein consignee under Official Receipt Nos. CB-70102 dated September 19, 1969, CB-84990 dated December 9, 1969 and CB-98823 dated January 19, 1970, respectively. Said payments were, however, effected by the herein consignee under protests and*

docketed at the Port of Manila as Manila Protest Nos. 4135 (Entry 78279), 4138 (Entry 97129) and 4140 (Entry 114807) on the ground that the value of $2.04 per pound of Trichlorocarbanilide declared in the said import entries were the correct value.

Acting on the said protests, the Collector of Customs of the Port of Manila, in his decision dated December 13, 1974, dismissed said protests for lack of merit, hence, this appeal.

The facts of this case were not in dispute and the only issue to be resolved is the determination of the correct value of trichlorocarbanilide at the time of exportation from the country of origin.

Petitioner contends that the value declared in the consular and commercial invoices is the correct home consumption value pursuant to Section 201 of the applicable Tariff and Customs Code of the Philippines. While it is true that the customs appraiser may reject the value appearing in the consular and commercial invoices, the law expressly requires that there be a reasonable basis for doubting the veracity of such valuation. Petitioner therefore submits that in disregarding the values appearing in the consular and commercial invoices and other documents presented by it, and in imposing his own valuation, the appraiser acted contrary to law, specifically, the express provisions of Section 201 of the applicable Tariff and Customs Code.

We agree.

Under analogous conditions, the Supreme Court has already ruled in Commissioner of Customs vs. Court of Tax Appeals and Bell Hobart Manufacturing, Inc., G.R. Nos. L-48144-47, June 28, 1988:

> *xxx xxx xxx*
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> *The law seems clear and specific. It merely calls for its application as worded. There is no room for interpretation. "The home consumption value or price under this section shall be the value or price declared in the consular, commercial, trade, or sales invoice."*
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> *xxx xxx xxx*
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> *Going back to the instant cases, it should be unequivocally stated, as the records will show, that there was no published value of the subject steel wire rods declared or disseminated by respondent, as required by paragraph 3 of Section 201, discussed above. Clearly, therefore, there was no reasonable doubt entertained by respondent Commissioner of Customs as to the value or price of the imported steel wire rods declared in the entries; otherwise, as mandated by the law, the correct dutiable value of the shipments in question should have been ascertained from reports of the Revenue Attache or Commercial Attache or other Philippine Diplomatic officers and from such other information that may be available to the Bureau of Customs, and*

> *from the data gathered, the Commissioner of Customs should have ascertained and established the home consumption value of the imported article. Accordingly, under the second paragraph of Section 201, supra, the home consumption value or price should be the value or price declared in the consular, commercial, trade or sales invoice. Since there is no fidelity nor compliance of what are required by the legal provisions applicable, in the absence of evidence to the contrary, there is no basis therefore for the assertion of respondent that the correct value of the imported steel wire rods i at $325.00 per metric ton. The terms of the statute provide the safest guide as to the statutory policy, to which obedience is due and from which deviation is not allowable. (Padilla vs. City of Pasay, L-24039, June 29, 1962, 23 SCRA 1349.)*

Finally, the Supreme Court's pronouncement in Commissioner of Customs vs. Court of Tax Appeals, G.R. No. 70648, July 31, 1987, is apt.

> *While it is true that appraisers of the Bureau of Customs are given ample leeway in determining the correct customs duties under Section 1405 of the Tariff and Customs Code, Section 201 of the same Code, which prescribes the criteria for the determination of the dutiable values of imported articles, has not been complied with. What is more, administrative proceedings are not exempt from the operation of due process requirement one of which is that a finding by an administrative tribunal should be supported by substantial evidence presented at the hearing or at least contained in the records or disclosed to the parties affected. In*

> *this case the 'Alert Notices' (or alleged established values) on which petitioner (Commissioner of Customs) based its re-appraisal were not disclosed during the proceedings before the Bureau of Customs nor presented in evidence before respondent Court. The re-appraisal made by petitioner, therefore, can be faulted with arbitrariness in disregard of the standard of due process to which all governmental action should conform to impress upon it the stamp of validity.*

Accordingly, the instant petition for review is hereby granted and respondent Commissioner of Customs is ordered to refund to petitioner Procter & Gamble Philippines Manufacturing Corporation, as a consequence of the re-appraisal, the additional duties and taxes, together with surcharge, paid in the following amounts:

(a) P751.00 in Entry No. 78279;

(b) P5,541.00 in Entry No. 97129; and

(c) P912.00 in Entry No. 224807.

WHEREFORE, the appealed decision is reversed. No costs.

SO ORDERED.

Quezon City, Metro Manila, November 16, 1988.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge

C E R T I F I C A T I O N

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals