THE SHELL COMPANY OF THE
PHILIPPINES LIMITED,
Petitioner,

Feb. 12, 1968

- versus -

C. T. A.
CASE NO. 1704

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

D E C I S I O N

This is an appeal from a decision of the Commissioner of Customs dated September 20, 1965, affirming that of the Collector of Customs of Davao City denying petitioner's claim for refund in the total amount of ₱23,852.31 allegedly overpaid as customs duty and special import tax.

The pertinent facts of the case, as stipulated by the parties, are as follows:

> "2. Petitioner imported the following merchandise which arrived on August 12, 1960, at the port of Davao on board the SS "DESMOULEA":
>
> (a) 2,269.20 long tons (2,305,510 kilos) gasoline, declared under Entry No. 21;
>
> (b) 478 long tons (485,650 kilos) kerosene, declared under Entry No. 22;
>
> (c) 808.75 long tons (821,690 kilos) of diesoline, declared under Entry No. 23; and
>
> (d) 1,002.45 long tons (1,018,490 kilos) of diesel fuel, declared under Entry No. 24.

"3. The duties and taxes due on said shipments were paid on August 18, 1960 under Vouchers Nos. 305, 306, 303 and 304.

"4. Petitioner, on August 24, 1960, filed with the Collector of Customs of Davao, Protests Nos. 92, 93, 94 and 95, Series of 1960, dated August 18, 1960, for the refund of alleged excess customs duties and Special Import Tax in the aggregate amount of ₱23,852.31 due to the inclusion of the Margin Fee in the tax base of the importations referred to in paragraph No. 2.

"5. The Collector of Customs of Davao in a decision dated October 31, 1960, overruled the protests of petitioner enumerated in the preceding paragraph.

"6. Upon appeal in due course by petitioner to respondent from the adverse decision of the Collector of Customs of Davao, respondent sustained said Collector of Customs in a decision rendered on September 20, 1965 (received by petitioner on September 25, 1965)." (P. 18, C.T.A. rec.)

The only issue raised by the parties is whether or not the 25% margin fee collected under Republic Act 2609 should form part of the tax base for the purpose of computing the customs duty and special import tax on the shipment in question.

We have ruled, in similar cases, adversely against the stand of petitioner.

"x x x For, as regards the petitioner-importer, the inescapable fact is that the true value and price of the imported articles are those appearing in the customs entries and expressed in American dollars, plus the margin fee of 25%. The 25% fee is necessarily included in the value and price of the importations because no importation payable in foreign exchange could then be effected without payment thereof." (Atlantic, Gulf and Pacific Company of Manila, Inc., vs. Comm. of Customs, C.T.A. Case No. 1513, September 4, 1957, citing Caltex (Phil.) Inc. vs. Actg. Comm. of Customs, C.T.A. Case No. 1490, May 25, 1965; Atlas Consolidated Mining and Development Corp. vs. Comm. of Customs, C.T.A. Case No. 1161, June 4, 1962.)

Finding no valid ground to justify a departure from the above-mentioned ruling, we hold that the margin fee was properly considered in computing the customs duty and special import tax in question.

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

SO ORDERED.

Quezon City, February 12, 1968.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge