REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHIL. FOOD PROCESSORS AND EXPORTERS ORGANIZATION, INC. (PHILFOODEX); PHILFOODEX BONDED WAREHOUSE, INC.,
Petitioners,

\- versus -

C.T.A. CASE NO. 5577

BUREAU OF CUSTOMS, represented herein by HON. GUILLERMO L. PARAYNO, JR. and DISTRICT COLLECTOR OF CUSTOMS FELIPE A. BARTOLOME, PORT OF BATANGAS,
Respondents.

Promulgated:
NOV 18 1998

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RESOLUTION

Before Us for resolution is Respondents' "Motion to Dismiss" filed on September 14, 1998 praying that the Petition be dismissed on the ground that their cause of action is already barred by a prior judgment. Respondents assert that for failure of Petitioners to affix the documentary stamp in the administrative notice of appeal which prompted the Commissioner in dismissing the appeal, the decision of respondent Collector of Customs has become final and executory, hence, it has acquired the status of *res judicata*.

Petitioners, on the other hand, oppose the assertion of Respondents, and plea for this Court's greater

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latitude in order to try their case on the merits instead of mere technicalities. They further submit that Respondents violated the basic requirement under Section 1, Rule 16 of the Rules of Civil Procedure when their motion to dismiss was filed after an answer has already been made.

The present controversy arose from the following circumstances.

On October 21, 1996, a Warrant of Seizure and Detention (WSD) was issued by respondent District Collector of Customs, Port of Batangas, covering 5,500 MT of raw sugar imported by herein petitioners.

Subsequently, a forfeiture proceeding was instituted by respondent Collector of Customs against the shipment.

After due hearing on April 3, 1997, Petitioners received the decision of respondent Collector of Customs, dated March 18, 1997, declaring the forfeiture of the subject shipment in favor of the government (Annex A of the Petition, CTA records, pp. 30-53).

Not satisfied with the decision, Petitioners, through counsel, appealed to the Commissioner of Customs on April 10, 1997.

On September 16, 1997, the Commissioner of Customs dismissed the appeal (Annex C-1 to C-6 of the Petition, pp. 56-61, CTA records) by stating that:

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"**WHEREAS**, on 10 April 1997 said counsel filed a purported appeal which was not perfected by reason of the failure to provide the docket fee by way of affixing the required documentary stamp which is fatal defect, pursuant to the following provisions of the Tariff and Customs Code of the Philippines, as amended:

> "**Section 3301.** ***Customs Fees and Charges.*** - For services rendered and documents issued by the Bureau of Customs the following fees shall be charged and collected, by affixing documentary customs stamps in the correct amount upon the document or any other paper which is the subject of the charge and by the cancellation of such stamps in the manner prescribed by the Commissioner, and no such document or any other paper shall be issued or granted by any customs official until the correct amount of stamps shall have been affixed and cancelled: Provided, however, that fees of twenty pesos or over may be paid in cash:
>
> x x x x x x x x x
>
> For each appeal in protest and seizure cases .... ₱50.00 (Revised rates, CAO 9-92 dated 21 September 1992)
>
> "**Section 3303.** ***Effect of Failure to Affix Stamp upon Document.*** - <u>No document or any other paper upon which no documentary customs stamps have been affixed and cancelled shall be received or recognized by any customs official.</u> (Underscoring Ours)

"x x x and regardless of the alleged merits of the case as procedural rules have not been complied with, the same cannot by itself resurrect what has been from the start a dead case. We are referring to the fact that petitioner in its protests failed to attach the required documentary stamps which is in the nature of a docket fee and failure to pay the

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> docket fee for appeals on time is fatal. x x x Hence, such notice of appeal can only be considered as a mere 'scrap of paper' since it was not perfected for the failure of Petitioner to affix to the Notice of Appeal the required customs stamp pursuant to Sections 2308 and 3001 of the Tariff and Customs Code." **(Lipat vs. Commissioner of Customs, CTA Case No. 1442, October 26, 1966 cited in CTA Case No. 4478, [Nestle Philippines vs. Commissioner of Customs, 30 May 1995; Consolidated Plywood Industries, Inc. vs. Commissioner of Customs, CTA Case No. 4613, March 21, 1993).**"

A motion for reconsideration was filed but it was subsequently denied in the Order of the Commissioner, dated January 20, 1998 (Annex G-1, G-2, of the Petition, pp. 90-91).

Feeling aggrieved by the action taken by the respondent Bureau, Petitioners filed the instant Petition before this Court on February 10, 1998.

Respondents asseverate in their answer, *inter alia*, that Petitioners' cause of action is barred by prior judgment and pray for the dismissal of the petition.

During the trial, or almost four (4) months after an Answer was filed, respondents filed a Motion to Dismiss reiterating the above mentioned ground before this Court.

After a careful scrutiny of the pleadings filed by both parties as well as a meticulous study of their assertions contained therein, this Court has arrived at the following findings and observations.

Petitioners failed to perfect their appeal from the decision of the District Collector of Customs to the

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Commissioner of Customs within the reglementary period of fifteen (15) days after notification in writing by the Collector of his action or decision pursuant to Customs Administrative Order No. 226, dated December 3, 1957, (Vol. 54, No. 2, Official Gazette, January 31, 1958), governing appeals from decisions or actions of the Collector of Customs to the Commissioner of Customs, which provides:

> "**PAR. VII.** 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. <u>The notice of appeal shall be subject to a filing fee of ₱10.00 (now has been increased to ₱100.00 per CAO No. 9-92 dated 21 September 1992) in customs stamp</u> and shall, together with the records of the case, be forthwith transmitted by the Collector to the Commissioner of Customs." (Underscoring supplied)

The period of fifteen (15) days mentioned in the foregoing excerpt has been interpreted as not merely procedural but jurisdictional; not directory but mandatory, and unextendible by Courts. Said the Supreme

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Court in **Chan Kian vs. The Court of Tax Appeals and the Collector of Customs (105 Phil. 904, May 29, 1959):**

> "The period of 15 days prescribed by law for an appeal in cases of forfeiture is not a matter of procedure which courts may ignore. The provisions of the customs law, like those of the internal revenue code, are not directory merely but mandatory. The period for an appeal is fixed by law at 15 days in order that penalties may be promptly enforced. Questions involving forfeiture should be decided promptly and expeditiously as delays therein may result in the clogging of customs warehouses with merchandise illegally imported. It is beyond the power of the courts to extend the period for appeal. The Commissioner of Customs and the Court of Tax Appeals acted correctly in dismissing the appeal of the petitioner, as it was not filed within the period of 15 days prescribed by law."

In the case at bar, while it may be true that herein petitioners filed their notice of appeal within the fifteen (15) day reglementary period, such notice of appeal can only be considered a mere 'scrap of paper', since it was not perfected for the failure of petitioners to affix to the notice of appeal the required customs stamp pursuant to Section 3301 of the Tariff and Customs Code, as amended. Mere notice of appeal without complying with the other requisites for the perfection of appeal does not stop the running of the period for perfecting an appeal **(Garais vs. NLRC, 256 SCRA 560).** We find no cogent reason to deviate from our earlier rulings that the documentary customs stamp requirement is in the nature of a docket fee and failure to pay the docket fee for appeals on time is fatal. An appeal cannot be perfected if the corresponding docket fee is not paid **(De Guzman vs. IAC, 169 SCRA 288).**

Petitioners put the blame on the Respondents by imputing administrative omission on the part of the latter for failure to inform them of the defect in their appeal. We cannot allow such disquisition. Suffice it to state that advising importers to pay the docket fee together with their notice of appeal is beyond the realm of the duties of Respondents. As a seasoned lawyer, petitioners' counsel is deemed to have known the requirements for the perfection of an appeal even in the administrative level. Why such requirement of vital importance could have been overlooked and not complied with is simply beyond our comprehension. We are left with no other recourse except to conclude that this is a case of negligence on the part of Petitioners'. Thus, to suit the Petitioners' plea would clearly pave the way for injustice as it would be rewarding an act of negligence with undeserved tolerance. Thus, due to Petitioners' failure to perfect their appeal within the reglementary period, the assailed decision of the respondent Collector of Customs, dated March 18, 1997, is already final and executory, and this Court has naturally no jurisdiction to take cognizance of this case. It has been ruled that

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the failure of a party to perfect his appeal in the manner and within the period fixed by law renders the decision sought to be appealed final, with the result that no court can exercise appellate jurisdiction to review the decision, for it is more important that a case be settled than that it be settled right **(Azores vs. SEC, 252 SCRA 387).**

Such being the case, the discussion on the other issues and the merits or demerits of the case will only be purely an academic exercise as this Court lacks jurisdiction. However, it may be added that even without a motion to dismiss, a case may, for lack of jurisdiction over the subject matter or nature of the case, be dismissed *motu propio* by the Court (see Section 2, Rule 9 of the Rules of Court). Courts are bound to take notice of the limits of their authority, and they may by their own motion (*motu propio*), even though the question is not raised by the pleadings, or not even suggested by counsel recognize the want of jurisdiction and act accordingly by staying the pleadings dismissing the action, or otherwise notice the defect, at any stage of the proceedings **(Ace Publications Inc. vs. The Commissioner of Customs, L-16761, October 31, 1964, cited in the book of Edgardo Paras, entitled "Rules of Court Annotated", 1989 2nd ed., vol. 1, p. 405).**

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WHEREFORE, in view of the foregoing, Respondents' Motion to Dismiss is hereby **GRANTED**. The "Petition for Review on Certiorari and Prohibition" is hereby **DISMISSED**. No costs.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

AMANCIO Q. SAGA
Associate Judge

RAMON O. DE VEYRA
Associate Judge

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