NEGROS NAVIGATION CO., INC.,
Petitioner,

- versus -

C.T.A.
CASE NO. 991

COMMISSIONER OF CUSTOMS,
ELEUTERIO CAPAPAS and
COLLECTOR OF CUSTOMS OF ILOILO,
PEDRO G. VILLAFUERTE,
Respondents.

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R E S O L U T I O N

This refers to the motion of the respondents seeking the dismissal of the petition for review on the ground that this Court has no jurisdiction to entertain the said petition.

The records show that in a letter dated July 10, 1958 (p. 3, Customs rec.), the Acting Collector of Customs for the port of Iloilo demanded from the petitioner the payment of the sum of ₱19,601.92 as storage charges on 2 marine engines which have been stored at Muelle Looney since November 29, 1956. The petitioner requested reconsideration of this demand in his letter dated July 16, 1958 (pp. 4-6, Customs rec.). In an indorsement dated July 22, 1958 (p. 7, Customs rec.), the Collector of Customs for the port of Iloilo requested the Commissioner of Customs for information as to whether or not the engines in question may be considered coastwise cargo for purposes of assessing and collecting storage charges under Section 3001 (sic) (k) of the Tariff and Customs Code. In reply thereto, the Commissioner, in his 2nd Indorsement of November 21, 1958 (p. 8, Customs rec.), informed the Collector that "the articles, subject matter of the preceding indorsement, may be considered as cargo in accordance with the ruling of the Supreme Court in the case of United States vs. Steamship Rubi, 32 Phil. 228, x x x," and directed the latter to collect the storage charges on the marine engines in question. Pursuant to the said opinion and directive, the Acting Collector of Customs for Iloilo demanded the payment of storage charges in the reduced amount of ₱19,215.84 (p. 9, Customs rec.). Again, the petitioner requested that this demand for payment be reconsidered (pp. 10-17, Customs rec.). This request for reconsideration was referred by the Collector to the Commissioner of Customs (p. 26, Customs rec.), who found "no basis for changing its (his) ruling of November 21, 1958," and again directed the former to collect the storage charges (p. 27, Customs rec.). Consequently, the Collector, in his letter of November 28, 1960, demanded of the petitioner the payment within 10 days from receipt thereof of liquidated storage charges amounting to ₱19,601.92 (p. 28, Customs rec.). Hence, the instant appeal.

Upon the rationale that the petitioner did not appeal the decision of the Collector of Customs of Iloilo to the Commissioner of Customs, and therefore, there is at present no decision of the latter official which may be reviewed, the respondents contend that this Court has no jurisdiction to entertain the present petition for review.

We find the respondents' contention meritorious. What is being actually appealed to us is the decision of the Collector of Customs for the port of Iloilo imposing storage charges on the marine engines in question. As a matter of fact, the various demands for payment of the charges were signed either by the Collector or the Acting Collector. Moreover, the petitioner neither protested such ruling or decision nor gave written notice to the Collector of his desire to have the matter reviewed by the Commissioner of Customs.

But, the petitioner argues that the first and only decision rendered in this matter of storage fees from which the present appeal was interposed is that contained in the 2nd Indorsement of the Commissioner of Customs, dated November 21, 1958. In this connection, it must be noted that prior to the said indorsement, the Collector has already demanded of the petitioner the payment of storage charges. The fact that the opinion of the Commissioner relative to the petitioner's liability for storage fees coincides with that of the Collector did not convert the latter opinion into that of the Commissioner, for "the action of the Commissioner as regards matters referred to him by the Collector was only supervisory in nature and his conformity or disagreement to the rulings of the latter does not transform said decisions into that of the Commissioner." (Sampaguita Shoe & Slipper Factory vs. Commissioner, et al., G.R. No. L-10285, January 14, 1958.) And "independently of the opinion of Commissioner on matters brought to his attention for advise by the Collector, the parties therefore still have the right to appeal the controversy to him for the proper determination of his office." (Ibid.)

It appearing that the petitioner failed to appeal the decision of the Collector of Customs for the port of Iloilo to the Commissioner of Customs, we find that this Court has no jurisdiction over the instant petition for review.

WHEREFORE, the petition for review filed on December 20, 1960 is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Manila, March 29, 1961.

AUGUSTO M. LUCIANO
Associate Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge

Presiding Judge MARIANO NABLE did not take part.

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