ENOC G. SANTOS,
Petitioner,

versus

C. T. A. CASE NO. 235
12-22-56

THE COMMISSIONER OF
CUSTOMS,
Respondent.

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D E C I S I O N

This is a petition to review respondent's decision on appeal affirming _in toto_ the decision of the Collector of Customs of the Port of Manila which decreed the forfeiture of the three (3) cases of ladies handbags in question for alleged violation of Central Bank Circular No. 44 in relation to Section 1363(f) of the Revised Administrative Code.

The case was submitted by the parties for decision, on the basis of the stipulation of facts presented during the seizure hearing before the Collector of Customs and the additional documentary exhibits presented to and admitted by this Court.

From the evidence thus adduced, it appears that on May 4, 1954 the SS "TJIPANAS" arrived at the Port of Manila, with a shipment, among others, of three (3) cases containing five hundred (500) dozens of ladies handbags, consigned to herein petitioner. The merchandise was declared for customs purposes under Import Entry and Internal Revenue Declaration No. 35128, and duly accompanied by a bill of lading and commercial and consular invoices.

A Central Bank Release Certificate, Ref. No. 07299, dated May 20, 1954, was presented authorizing the release to petitioner, among others, of 3 cases cotton bags with Commodity Classification "NEP" and Code No. 650601. This Commodity Classification falls under the subtitle "Bags and Sacks for Packing" of the Appendices to Regulation No. 1 Implementing Circular No. 44, Revised as of March 10, 1954 (Exhibits "X" and "1"). Upon examination by customs personnel of the aforementioned three cases, they were found to contain ladies handbags made of cloth and imitation beads, and they were seized allegedly for not falling under the commodity code number authorized in the Central Bank Release Certificate. Pending the seizure proceedings, however, the goods were released to petitioner upon filing of Surety Bond No. 54/4702 of the Paramount Surety & Insurance Co., Inc., the customs duties and sales taxes due thereon having been already paid. After the seizure proceedings, the Collector of Customs rendered a decision decreeing their forfeiture, which decision was affirmed <u>in toto</u> by respondent.

It is to be noted that the importation in question did not involve dollar remittance (See Stipulation of Facts, paragraph 2). This fact is further supported by the statement "No $ remittance" found in the entry declaration and the Central Bank Release Certificate which indicates the words "No Dollar Remittance". There is no issue in this respect and we therefore find that this particular importation, consisting of three (3) cases of ladies handbags, did not involve dollar remittance or the sale of foreign exchange. The sole question here therefore, is whether the three (3) cases of ladies handbags are subject to forfeiture under the provisions of Central Bank Circular No. 44 in relation to Section 1363(f) of the Revised Administrative Code.

In the light of our ruling in previous cases (Nepomuceno v. The Commissioner of Customs et al., C. T. A. Case No. 122, July 26, 1956; Leuterio v. The Commissioner of Customs, C. T. A. Case No. 29, April 18, 1955), concerning importations involving no dollar remittances, we regard it unnecessary to pass upon the question of the correctness and applicability of the commodity classification made by the Central Bank relative to importations involving foreign exchange.

In the case of Nepomuceno v. The Commissioner of Customs, supra, we said:

> "We have patiently perused and carefully scrutinized the provisions of Republic Act No. 265 and find no authority and justification for the proposition that the Central Bank of the Philippines is invested with the power to control importations that do not involve dollar remittances. On the contrary, the legislative enactment clearly confines and circumscribes the power of the Central Bank to the suspension or restriction of sales of foreign exchange. (See Section 74, Republic Act No. 265)
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> "Even from the explanatory note

> of and the congressional discussion on House Bill No. 1704, now Republic Act No. 265, there is no indication of an intention to empower the Central Bank to restrict importations on the so-called 'no-dollar' basis. This observation receives confirmation from the fact that on February 4, 1955, House Bill No. 2889 entitled 'An Act Authorizing the Central Bank to Issue Regulations Governing Imports Which Do Not Involve the Sale of Foreign Exchange, and Providing Penalties for Violations of Such Regulations, by Amending Section 74 of Republic Act No. 265' was filed so as to empower the Central Bank to deal with no-dollar importations. This bill was favorably reported out by the House Committee on Commerce and Industry, but failed to gain Congressional approval. It was only with the enactment of Senate Bill No. 384 into Republic Act No. 1410 on September 10, 1955 that the so-called 'no-dollar' importations became subject to regulation, this time however, under the authority of the Department of Commerce and Industry, not the Central Bank of the Philippines. <u>Until this latter enactment, we believe, there appeared no reasonable basis to consider that the Central Bank possessed such powers to regulate no-dollar importations.</u>" (underscoring ours.)

It is therefore our "opinion that the Central Bank of the Philippines has no power to issue Central Bank Circulars Nos. 44 and 45 in order to regulate imports which do not involve the sale of foreign exchange, and we therefore, declare said circulars as without force and effect in so far as they govern imports for which no foreign exchange is required or will be required". (See Leuterio v. The Commissioner of Customs, <u>supra</u>; Nepomuceno v. The Commissioner of Customs, et al., <u>supra</u>). Hence, until the approval of Republic Act No. 1410, there was no licensing requirement on importations involving no dollar remittance. Accordingly, the instant importation may not be forfeited for failure of the importer to comply with Central Bank Circulars not validly applicable to it.

WHEREFORE, the decision on appeal of the respondent Commissioner of Customs is hereby reversed. We decree the cancellation of Bond No. 54/4702 of the Paramount Surety & Insurance Co., Inc. for the sum of ₱3,000.00 which was filed for the release of the ladies handbags in question. Without pronouncement as to costs.

SO ORDERED.

Manila, December 22, 1956.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge