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Republic of the Philippines
COURT OF TAX APPEALS
Manila

AUSTIN & CO., INC., and
SANFORD TOBACCO CO., INC.,
Petitioners,

- versus -

C.T.A.
CASE NO. 1400

PEDRO PACIS, as Acting Collector of Customs, NORBERTO ROMUALDEZ, Acting Commissioner of Customs, and the CHIEF, LAW DIVISION, Bureau of Customs, as Special Bidding Committee Chairman,
Respondents.

October 21/63

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RESOLUTION

The petitioners, American corporations dealing in leaf tobacco, have filed a petition "in the nature of certiorari" praying that judgment be rendered "annulling respondent Acting Collector of Customs' order and notice of sale" of 600 hogsheads of leaf tobacco belonging to them. From the meager evidence of record, the pertinent facts of the case may be briefly stated as follows:

Sometime in 1953, Hong Whua Hang (Auyong Hian) applied for licenses to import leaf tobacco, which application was approved by the former Import Control Commission on June 29, 1953. On the following day, June 30, 1953, Republic Act No. 650 was repealed and the Import Control Commission was thereby abolished. Thereafter, Hong Whua Hang sought the release of his licenses from the Office of the President. The said licenses were finally released by the Office of the

President on October 31, 1961.

Pursuant to said licenses, Hong Whua Hang ordered Virginia leaf tobacco from petitioners. In November, 1961, petitioners shipped to Hong Whua Hang 600 hogsheads of Virginia leaf tobacco. Upon arrival of the 600 hogsheads of leaf tobacco in Manila, the Acting Collector of Customs of Manila ordered their detention and the institution of seizure proceedings pursuant to Sections 1207 and 2503(f) of the Tariff and Customs Code. After hearing, said goods were declared forfeited for having been imported, or attempted to be imported, contrary to law. At the same time, the goods were ordered to "be sold, without unnecessary delay, pursuant to Section 2607 of the Tariff and Customs Code."

On May 13, 1963, petitioners appealed the order of the Acting Collector of Customs to the Commissioner of Customs, purs uant to Section 2313 of the Tariff and Customs Code. It appears that the records of the case have not yet been transmitted to the office of the Commissioner. In the meantime, the Acting Collector of Customs issued a notice of sale under date May 9, 1963 for the sale of said leaf tobacco on June 10, 1963 at 9:00 A.M. and every morning thereafter until terminated.

Upon being notified of the projected auction sale, petitioners requested the Commissioner of Customs and the Secretary of Finance to order the Acting Collector of Customs to suspend the sale pending final determination of the case. (See Annexes C-1 and C-2 of the Petition.) It is not clear whether or not the leaf tobacco in question was actually sold on the scheduled date, but we gather from the manifestation of counsel for the Government that the auction sale has been held in abeyance.

> "2. That the Annexes C-1 and C-2 referred to in paragraph 14 of the petition for review have been referred to the Acting Collector for appropriate action, as may be seen from the 1st indorsement dated July 1, 1963, a copy of which is hereto attached and made part hereof as Annex 'A'. Hence, the matter may be said to be still pending consideration by the respondent Acting Collector of Customs; and in fact the records of the case have not yet been forwarded to the respondent Acting Commissioner of Customs for review." (Motion to Dismiss, July 8, 1963, pp. 34-35, CTA records.)

On July 9, 1963, respondent Acting Commissioner of Customs filed a motion to dismiss the petition on the ground that "there being no decision on appeal (rendered by the Commissioner of Customs), as may be gleaned from the context of the petition itself, this Honorable Court has no jurisdiction to entertain this petition for review."

In reply to the motion to dismiss, it is alleged on behalf of petitioners that -

> "(a) This is not a petition for review but a petition in the nature of certiorari over which the Court of Tax Appeals has been declared to have exclusive jurisdiction (Pepsi-Cola Bottling Co. of the Philippines, Inc. v. Manuel Manahan as Commissioner of Customs, et al., supra).
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> "(b) It can even be said that the instant certiorari is in aid of the appellate jurisdiction of the Court of Tax

Appeals (Collector v. Court of Tax Appeals, SC-GR No. L-12518, October 28, 1961)."

In the Pepsi-Cola Bottling Co. case (G. R. No. L-12096, April 30, 1959), it was held that the exclusive jurisdiction of this Court to review decisions of the Commissioner of Customs "is so exclusive as to deprive the Manila court of first instance of its previous authority to interfere with decisions of the Commissioner of Customs, even in the form of proceedings for certiorari or mandamus (or prohibition) since these are in reality attempts to review the latter's actuations." Obviously, the proceedings for certiorari or mandamus (or prohibition) referred to in the above cited case must in reality be an appeal from a decision of the Commissioner of Customs to be cognizable by this Court. Here, it is admitted that the petition for certiorari is not an appeal from a decision of the Commissioner of Customs for he has not yet rendered his decision on petitioners' appeal from the decision of the Acting Collector of Customs. The petition seeks to enjoin the Acting Collector of Customs from proceeding with the sale at public auction of the leaf tobacco in question. But decisions or actuations of collectors of customs are not reviewable by this Court. (Rufino Lopez v. Court of Tax Appeals, G. R. No. 9274, Feb. 1, 1957.)

The case of Collector v. J. C. Yuseco & Court of Tax Appeals, G. R. No. L-12518, October 28, 1961, has been cited in support of the view that the instant petition for certiorari is cognizable by this Court as it is merely in aid of our appellate jurisdiction. In said case it was held:

> "x x x. Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition and injunction <u>independently of, and apart from, an appealed case</u>.
>
> x x x x
>
> "x x x the intention of Congress was to vest the Court of Tax Appeals with jurisdiction to issue writs of prohibition and injunction only in aid of its appellate jurisdiction <u>in cases appealed to it and not to clothe it with original jurisdiction to issue them</u>." (Emphasis supplied.)

It is clear from the aforequoted portions of the decision in the Yuseco case that this Court has no original jurisdiction to issue writs of prohibition or injunction; it may issue such writs only in aid of its appellate jurisdiction, that is, in connection with cases appealed to it. In this case, there is no appeal from a decision of the Commissioner of Customs, and the petition for certiorari can not be said to be in aid of this Court's appellate jurisdiction.

Finding that this Court has no jurisdiction to entertain the instant petition for certiorari, the same has to be, as it is hereby, dismissed. Without pronouncement as to costs.

SO ORDERED.

Manila, October 31, 1963.

(Sgd.) ROMAN M. UMALI
Associate Judge

I CONCUR:

(Sgd.) MARIANO NABLE
Presiding Judge