REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE EVANGELICAL CHARITIES, INC.,
Petitioner,

- versus - C. T. A. CASE NO. 2550

THE COMMISSIONER OF CUSTOMS,
Respondent.
X - - - - - - - - - - - - - - - - X

9/12/74

D E C I S I O N

This is a petition to review the decision of respondent Commissioner of Customs, dated July 9, 1973, upholding the decision of the Collector of Customs forfeiting four (4) cases of confectionaries, for alleged violation of Central Bank Circular 295 in relation to Section 2530 (f) of the Tariff and Customs Code.

Both parties agreed that the Customs record stand as it is, and all are admitted as part of the evidence, both for the petitioner and the respondent. The parties also agreed on the following facts;

> "1. That the vessel SS "Taimyr" with Reg. No. 1388 arrived at the Port of Manila on August 10, 1971 from Rotterdam, Holland and among the cargoes unloaded were four (4) cases marked E. C. Manila containing confectionaries consigned to Evangelical Charities, Inc.;
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> "2. That a Bill of Lading No. 60 was issued by the shipping agent, International Harvester Mcleod Co. in favor of the Evangelical Charities, Inc. and also the Inward Foreign Cargo Manifest of the vessel declaring the 4 cases of confectionaries;

"3. That the claimant thru Atty. Manuel Pineda submitted a letter of donation dated July 22, 1971 signed by Chit Ming Wong duly notarized by the Notary Public in Hongkong together with his affidavit duly subscribed before a Notary Public;

"4. That Atty. Manuel Pineda declared said shipment in the Customs No-Dollar Import Declaration dated August 8, 1971 and submitted together an Authority to Release Imported Goods No. BT-09801 issued by the Bureau of Internal Revenue dated August 4, 1971;

"5. That after examination of the shipments by the customs examiner, the claimant was required to pay the amount of ₱92.00 representing surcharges and wharfage dues as shown in Informal Entry No. 2522 dated August 12, 1971; and

"6. That the shipment was declared for revenue assessment as a donation to the Evangelical Charities Inc., a charitable institution duly organized and existing under the laws of the Philippines, from Mr. Chit Ming Wong of Hongkong, thus availing exemption from the payments of duties and taxes pursuant to Republic Act No. 1916." (See Exh. 5, pp. 476-477, Customs rec.)

There is no controversy that Chit Ming Wong executed an instrument of donation of the goods in question in favor of petitioner. Respondent however urges that the donation is fictitious and is a mere scheme to evade duties and taxes taking advantage of the provisions of Republic Act No. 1916 which provides as follows:

> "SECTION 1. The provisions of existing laws to the contrary notwithstanding, all donations in any form and all articles imported into the Philippines, consigned to a duly incorporated or established international civic organization, religious or charitable

society or institution for civic, religious or charitable purposes shall be exempt from the payment of all taxes and duties upon proof satisfactory to the Commissioner of Customs and/or Collector of Internal Revenue that such donations in any form and articles so imported are donations for its use or for free distribution and not for barter, sale or hire: Provided, however, That in case such articles are subsequently conveyed or transferred to other parties for a consideration, taxes and duties shall be collected thereon at double the rate provided under the existing laws payable by the transferor: Provided, further, That rules and regulations shall be promulgated by the Department of Finance for the implementation of this Act."

The finding of respondent which is the subject of this appeal is for the most part based on a report of the Philippine Consular Office in Hongkong. It appears from said report that Chit Ming Wong is a man of many aliases, to wit: Wong Chit-Ming, Stephen Wong, Stephen C. M. Wong, Stephen Wong Chit-Ming and Thao Keng. Hongkong police records show that he had been convicted for "aiding illegal immigrants". He claims that the value of the donation in question is about US$3,100 but the true value thereof is US$12,232.50, including ocean freight. He also claims that only 2/5 of the donation belongs to him and the rest were contributed by Henry Ludwig, William Sea, Chua Hong-He and about five or six persons whose names he however declined to name.

The report further states that Henry Ludwig is a respondent in a complaint in Hongkong for passing three dishonored checks, one for HK$5,000.00, another for US$835.00, and still another for HK$5,000.00. The writ against him could not be served because he was nowhere to be found.

The report also states that when Inspector A.A. Britto of the Commercial Crime Police of Hongkong questioned William Sea, the latter denied having contributed to the donation in question.

Upon the basis of the foregoing report, one can hardly question the decision of respondent declaring the document of donation in question as fictitious and as a mere scheme to evade duties and taxes. And more, it strikes us that neither petitioner nor the purported donor, Chit Ming Wong, rebutted the facts recited therein, or at least explained away its damaging implications, either in the administrative investigation or in the hearing of this case in this court.

We find no merit in petitioner's contention that the aforesaid report is not acceptable evidence because it is hearsay. Respondent Commissioner of Customs, acting administratively in review of the Collector's decision is neither bound by the technical rules of evidence nor constrained by the technical rules as to the admissibility of proof and is free to fashion his own rules and procedure and to pursue methods of inquiry capable of permitting him to discharge his multitudinous duties (Javier Sulay, et al., v. The Commissioner of Customs, and the Collector of Customs, Jolo, Sulu, CTA Case No. 1127, Oct. 5, 1966).

We find no valid reason for disturbing the appealed decision of the Commissioner of Customs. In effect the appealed decision is in line with the decision of this Court in Iglesia Filipina Independiente vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No. 2384, September 27, 1972.

WHEREFORE, the appealed decision is hereby affirmed. With costs.

SO ORDERED.

Quezon City, September 13, 1974.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge