Library
7 copies
Bul, Ma, 6
Jal, Rily & 2 Ex

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PROCTER & GAMBLE PHILIPPINE
MANUFACTURING CORPORATION,
Petitioner,

- versus -

C. T. A.
CASE NO. 1303

March 14, 1964

COMMISSIONER OF CUSTOMS,
Respondent.

x- - - - - - - - - - - - - -x

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs affirming that of the Collector of Customs denying the claim for refund of the sum of ₱720 paid by the petitioner as wharfage dues on caustic soda imported by it. The facts of the case are stated in the stipulation of facts submitted by the parties, the pertinent portions of which are reproduced below:

"1. Petitioner is a corporation organized and existing under the laws of the Philippines having its principal office at the corner of San Luis and L. Guerrero Streets, Ermita, Manila; respondent is the duly qualified and acting Commissioner of Customs.

2. On two occasions, shipments of caustic soda consigned to petitioner arrived at the Port of Manila from San Francisco, California, U.S.A., on board the following vessels and were entered as follows:

Vessel	Date of Arrival	Quantity	Entry No.
Bronxville	1/12/58	472 drums	4852-58
Banggai	5/ 5/58	630 "	37902-58

3. The caustic soda was unloaded from the importing vessels while they were near the breakwater in the Manila Bay into private lighters belonging to Atlantic Gulf & Pacific

Co., which were then moored alongside the importing vessels, and after the merchandise was unloaded, the lighters were towed by tugboats also belonging to Atlantic Gulf & Pacific Co. to petitioner's private wharf situated at Estero Vitas, Tondo, Manila, which wharf adjoins its factory at Velasquez St., Tondo, Manila.

4. The lighters docked at petitioner's wharf and the caustic soda was unloaded from the lighters onto said wharf. No Government wharves or facilities were used or availed of in unloading the caustic soda from the importing vessels to petitioner's warehouses at its aforesaid factory.

5. The Collector of Customs of Manila levied and collected on these two shipments the following amounts as wharfage fees:

Entry No.	Amount	Official Receipt No.	Date	Voucher No.	Date
4852-58	₱308.00	95036	1/9/58	06767	2/27/59
37902-58	412.00	105508	5/7/58	06765	2/27/59

6. On February 25, 1958 and October 24, 1958, petitioner filed written protests with the Collector of Customs of Manila against the assessment and collection of wharfage fees on these shipments alleging that inasmuch as no Government wharves or facilities were used in unloading the merchandise from the importing vessels to petitioner's warehouses and that it was discharged at shipside from the importing vessels anchored outside the breakwater into privately-owned lighters and from the latter direct to petitioner's wharf, it was not subject to the payment of wharfage fees, which protests were docketed as Manila Protests Nos. 343 and 347, respectively.

7. On December 22, 1960, petitioner received the decision of the Collector of Customs of Manila denying its protests, dated June 3, 1960, which decision was appealed by petitioner to respondent Commissioner of Customs in accordance with law.

8. On November 17, 1962, petitioner received the decision of respondent (Customs Case No. 530), dated November 12, 1962, affirming the decision of the Collector of Customs of Manila."

The sole question raised in this appeal is whether or not the wharfage dues paid by petitioner on its importations of caustic soda which were unloaded on a private wharf is in accordance with Sections 2801 and 2802 of the Tariff and Customs Code.

Petitioner contends that since wharfage dues are charges for the use of a wharf by way of rent or compensation, and as no Government wharf was used in the discharge of said caustic soda, the Government is not entitled to collect wharfage dues.

Before the passage of the Tariff and Customs Code (Rep. Act No. 1937) in 1957, the law in force governing wharfage dues was Republic Act No. 1371, Section 3 of which provides:

> "Sec. 3. There shall be levied, collected and paid on all articles imported or brought into the Philippines, and on products of the Philippines, except coal, lumber, creosoted and other pressure treated materials as well as other minor forest products, cement, guano, natural rock asphalt, the minerals and ores of base metals (e.g., copper, lead, zinc, iron, chromite, manganese, magnesite and steel), and sugar molasses, exported from the Philippines, a charge of two pesos per gross metric ton as a fee for wharfage: Provided, That in the case of logs, or flitches twelve inches square or equivalent cross-sectional area, or over, a charge of sixty centavos per cubic metric shall be collected: Provided, further, That such wharfage fee shall not be levied on articles imported or brought into the Philippines which are unloaded on private wharves." (Underscoring supplied).

DECISION -
C.T.A. CASE NO. 1303

The above-quoted Section 3 of Republic Act No. 1371 was incorporated in the Tariff and Customs Code as Section 2801, but the proviso contained in the former law "That such wharfage fee shall not be levied on articles imported or brought into the Philippines which are unloaded on private wharves" was eliminated. Obviously, the purpose of Congress in eliminating the said proviso is to impose wharfage dues irrespective of where the unloading of imported goods is made, whether on Government or private wharves. The validity of the imposition of wharfage dues on exported or imported goods loaded or unloaded on private wharves has been recognized. (Phil. Sugar Centrals Agency v. Insular Coll. of Customs, 51 Phil. 131.)

Finding no error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, March 14, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge