REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ALFREDO E. LIPAT,
Petitioner,

- versus -

COMMISSIONER OF CUSTOMS,
Respondent.

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

C.T.A. CASE NO. 1442

10/26/66

Dec. 21, 1966

D E C I S I O N

In connection with seizure proceedings instituted against 86 cartons of electric fan parts in which Alfredo E. Lipat appeared as claimant, the Collector of Customs rendered a decision, the dispositive portion of which is as follows:

> "WHEREFORE, by authority of Section 1379 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, it is ordered and decreed that the eighty-six (86) cartons of electric fan parts (blades and guards) covered by Seizure Identification No. 3748 be, as they are hereby declared, forfeited in favor of the Government of the Republic of the Philippines. It appearing that the same were already released to the claimant under surety bond, it is hereby ordered that Surety Bond No. G-9099, dated September 1, 1955, in the sum of FOUR THOUSAND FORTY-SEVEN PESOS (₱4,047.00), filed by the Capital Insurance & Surety Co., Inc., be paid to this Bureau in CASH by the principal and surety, jointly and severally, within thirty (30) days from receipt of notice of this decision, otherwise corresponding action shall be taken to effect collection thereof."

Not satisfied with the aforesaid decision, the claimant and his surety appealed to respondent Commissioner of Customs but after due hearing, respondent dismissed the appeal. Petitioner Alfredo E. Lipat now interposes the present petition for review against said dismissal.

This case was submitted for decision to this Court solely on the following stipulation of facts:

"1. That in 1955 petitioner imported into the Philippines 86 CTNS VENTILATOR PARTS (BLADE AND ACCESSORIES) under Registry No. 381 and declared under Entry No. 29786, series of 1955;

"2. That the above-mentioned shipment arrived in the Port of Manila, on April 6, 1955, from New York on board the S/S 'TUDOR';

"3. That the above-mentioned shipment involved no dollar remittance and was duly covered by the corresponding Bill of Lading, Consular Invoice and Commercial Invoice;

"4. That the said shipment was covered by a Bank Release Certificate which classified the said articles under Commodity Code No. 71-635EP;

"5. That upon examination of said shipment by the Bureau of Customs, the examiner maintained that the classification of the same should be under Commodity Code No. 72-141 NEC;

"6. That the said shipment was seized and was the subject of Seizure Identification Proceedings No. 3748 instituted by the Collector of Customs and/or his duly authorized representative for alleged violation of Central Bank Circular No. 44 in relation to Secs. 1250 and 1363(f) of the Revised Administrative Code.

"7. That pending the outcome of the seizure proceedings, said shipment was released to the petitioner under surety bond No. G-9099, dated September 1, 1955, of the Capital Insurance & Surety Co., Inc., in the sum of ₱4,047.00 issued in favor of the Republic of the Philippines, copy of which is found on pages 12-13 of the CTA records and made an integral part of this stipulation of facts.

"8. That on March 11, 1960, the Collector of Customs rendered a decision ordering petitioner, as well as his surety, to pay in cash to the Bureau of Customs within thirty days from receipt of said decision the full amount of ₱4,047.00;

"9. That on May 4, 1964, the claimant filed a motion for reconsideration and rehearing of the decision of the Collector of Customs, dated March 11, 1960, which motion was denied in the order of the Collector of Customs of November 4, 1960;

"10. That on April 19, 1961, the decision of the Collector of Customs was appealed to the Commissioner of Customs, who, on November 15, 1962, affirmed the decision of the Collector of Customs;

"11. That on February 14, 1963, the claimant filed a motion for reconsideration of the decision of the Commissioner of Customs of November 15, 1962, which motion was denied in its order of July 22, 1963;

"12. That on August 15, 1963, the claimant filed a petition for review of the case with this Honorable Court;

"13. That the issue on appeal is purely on a question of law."

Three issues are raised before us, namely: (a) whether this Court has jurisdiction over this case; (b) whether the decree of forfeiture for violation of Central Bank Circular No. 44 in relation to Sections 1250 and 1363(f) of the Revised Administrative Code is justified; and (c) whether petitioner is liable for the sum of ₱500.00 as damages.

As regards the first issue, respondent urges that this Court has no jurisdiction to take cognizance of this case because petitioner failed to perfect his appeal from the decision of the Collector of Customs of Manila to the respondent within the 15-day reglementary period, and to affix to his notice of appeal the required ₱10.00 in documentary stamps provided by Customs Administrative Order No. 226. Parenthetically, this same issue was raised before the respondent and was one of the two grounds for respondent's dismissal of the appeal from the Collector of Customs.

The evidence on record shows that petitioner received a copy of the decision of the Collector of Customs dated March 11, 1960 on April 20, 1960. On May 4, 1960, petitioner filed a motion for reconsideration and re-hearing which was denied by the Collector of Customs in an order dated November 4, 1960, copy of which was received by petitioner on April 17, 1961 (see page 000062 of the Customs record). Petitioner filed his appeal from the decision of the Collector of Customs to the respondent Commissioner only on April 19, 1961. Thus, the appeal was obviously filed out of time, that is, on the 16th day after receipt of the decision of the Collector of Customs, discounting the interruption occasioned by the motion for reconsideration and re-hearing.

Customs Administrative Order No. 226, dated December 3, 1957 and published in Vol. 54, No. 2, Official Gazette, January 31, 1958, governing appeals from decisions or actions of the Collector of Customs to the Commissioner of Customs, provides the following:

> "PAR. VII. The person aggrieved by the decision of action of a collector of customs in any matter presented upon protest or by his action in any case of seizure pursuant to section 2312 of the Tariff and Customs Code of the Philippines may give a written notice to the Collector of Customs of his desire to have the matter reviewed by the Commissioner of Customs. Such

> notice of appeal must be filed in triplicate within fifteen (15) days, including Sundays and legal holidays, from receipt by the aggrieved party or his authorized representative of written notification of the action or decision sought to be reviewed. The notice of appeal shall be subject to a filing fee of ₱10 in customs stamp and shall, together with the records of the case, be forthwith transmitted by the Collector to the Commissioner of Customs." (pp. 301-302)

The 15-day period mentioned in the foregoing excerpt has been interpreted as not merely procedural but jurisdictional, not directory but mandatory, and unextendible by Courts. Said the Supreme Court in Chan Kian vs. The Court of Tax Appeals and the Collector of Customs (G. R. No. L-12184, May 29, 1959):

> "The petition admits that a copy of the decision of the Collector of Customs was furnished the petitioner on October 24, 1955. But he claims that he believed from the notice received from the Collector of Customs that the period within which he should appeal was 30 days from the date of demand for payment; that his failure to appeal within 15 days was due to an honest mistake. This is the gist of the brief filed in his behalf by his counsel. It is argued in support of this claim that a rule of procedure may be overlooked if it does not involve a public policy and when a lapse in procedure arises from an honest mistake or an unforeseen event not prejudicial to the adverse party. We find no merit in this argument. The period of 15 days prescribed by law for an appeal in cases of forfeiture is not a matter of procedure which courts may ignore. The provisions of the customs law, like those of the internal revenue code, are not directory merely but mandatory. The period for an appeal is fixed by law at 15 days in order that penalties for violations of the laws or rules on importation may be promptly enforced. Questions involving forfieture should be decided promptly and expeditiously, as delays therein may result in the clogging of customs warehouses with merchandise illegally imported. It is beyond the

> power of the courts to extend the period for appeal. The Commissioner of Customs and the Court of Tax Appeals acted correctly in dismissing the appeal of the petitioner, as it was not filed within the period of 15 days prescribed by law."

Again, the settled rule in this jurisdiction is that tardiness of one day in the filing of an appeal is sufficient to bar an appeal (Juan G. de Rodriguez vs. Hon. Enrique A. Fernandez, et al., G. R. No. L-10823, May 28, 1957).

> "We do not agree that 'the ends of justice would be better subserved' by allowing an appeal presented 'only one day late.' There is no basis in fact, law, or reason for such conclusion. On the contrary, these considerations militate against it: (1) The orderly administration of justice would suffer a drawback if the period for perfecting appeals be rendered uncertain, as it would be, by sanctioning such transgression of the deadline. (2) The appealed decision is presumed by law to be just and correct, and therefore the denial of the appeal does not necessarily imply an injustice to the appellant. (3) The right to appeal is a purely statutory right, and he who wants to exercise it most comply with the statute." (Leoncia Reyes vs. The Court of Appeals and Enrique Bautista, No. 48960, June 29, 1943, 74 Phil. 238.)

Lastly, it is not denied that the appeal of the petitioner had no customs stampx of ₱10.00 as required by Customs Administrative Order No. 226 when it was filed. The necessary stamps were sent to the Bureau of Customs only on May 15, 1961 with a request that same be attached to the notice of appeal. To our mind, the stamp requirement is in the nature of a docket fee and good authority is to the effect that failure to pay the docket fee for appeals on time is fatal (Adriano Valdez, vs. Rodrigo Ocumen, et al., G. R. No. L-13536, Jan. 29, 1960).

There having been no valid appeal from the Collector of Customs to the respondent Commissioner of Customs, this Court has naturally no jurisdiction to take cognizance of this case. Having arrived at this conclusion, we deem it unnecessary to pass upon the other issues raised in this case.

WHEREFORE, the petition for review is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Quezon City, October 26, 1966.

(Sgd.) RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

(Sgd.) ROMAN M. UMALI
Presiding Judge

(Sgd.) ESTANISLAO R. ALVAREZ
Associate Judge