REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ROLANDO LIGON,
Petitioner,

- versus - C.T.A. CASE NO. 3607

COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - - x

D E C I S I O N

The case revolves on a question of whether or not the subject articles are of foreign origin and the appropriate taxes and duties thereon have been paid, to wit:

	Description	Rolls	Yards
1.	Cotton denims (maong)	158	11,893
2.	Corduroy	749	62,136
3.	Trueran	430	1,770
4.	Synthetic dress materials	482	22,165
5.	Suiting materials	9	435

It appears that sometime on September 15, 1981 elements of the Finance Ministry Intelligence Bureau (FMIB) with warrant of seizure and detention issued by the Collector of Customs of Manila seized the aforesaid materials allegedly of foreign origin from the petitioner's storage/bodega at 576 Padre Rada Street, Tondo, Manila; that in the exercise of an original and exclusive jurisdiction, the said Collector instituted Seizure Proceedings against the articles in violation of the pertinent provisions of Section 2536 in relation to Section 2530(f) and (l)-3, 4 and 5 of the Tariff and Customs Code with petitioner as claimant; that after due hearing and on findings that the articles were imported sans payment of the corresponding taxes and duties decreed the forfeiture thereof in favor of the Government (Seizure Identification No. 342-81, August 18, 1982), which order was upheld by the respondent Commissioner of Customs (Customs Case No. 82-26) on March 15, 1983.

In assailing the decree of forfeiture, petitioner alleges that he is engaged in buying and selling textile goods/materials under the business name and style "Bahaghari Marketing"; that his stocks are locally purchased in the normal and usual course of trade in good faith and for value; that he is not an importer and therefore does not come under the purview of the law relied upon by the Collector of Customs; that the textile materials in question could have been procured through third parties of auctioned confiscated importations in the port of Cebu and/or authorized sales of excess clothing materials from Siegfield, Philippines, Inc., a licensed operator in the Export Processing Zone; and, that "A possessor in the concept of an owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it" (Article 541, New Civil Code), and, "that things which a person possesses or exercises acts of ownership over, are owned by him". (Rule 131, Sec. 5(j) New Rules of Court).

The Collector of Customs, as sustained by the respondent Commissioner of Customs, found, "After evaluation of the evidence obtaining herein, this Office hereby finds that claimant (petitioner) failed to establish that the cotton denims (maong) were the same materials legally released from, and covered by Notice of Award by, the Bureau of Customs, Port of Cebu. The alleged Deed of Sale between William A. Dicdon (Seigfield, Philippines, Inc.) and Pedro Jesuitas (Exh. "14") was a mere xerox copy and has no probative value. If at all, however, while it showed that certain textile materials were the subject of sale, it did not prove that duties and taxes due thereon were paid. As to the various sales invoices and delivery receipts, the same only establish the fact that claimant had purchased cotton piece goods, dress materials and suiting materials from a legal textile mill and dealer. It could be error, however, to assume that these locally purchased materials were also locally produced. Samples taken from the seized materials and subjected to laboratory analysis revealed that the same were of foreign manufacture. There having been no showing that duties and taxes due thereon were paid, the same had incurred the liability of forfeiture as charged."

We do not think any different conclusion ought be reached in the instant case as we find nothing cryptic in the language of Section 2536 of the Tariff and Customs Code as to pose any ambiguity in its application, which reads:

> SEC. 2536. Seizure of Other Articles. -The Commissioner of Customs and Collector of Customs and/or any other customs officer, with the prior authorization in writing by the Commissioner, may demand evidence of payment of duties and taxes on foreign articles openly offered for sale or kept in storage, and if no such evidence can be produced, such articles may be seized and subjected to forfeiture proceedings: Provided, however, That during such proceedings the person or entity from whom such articles have been seized shall be given the opportunity to prove or show the source of such articles and the payment of duties and taxes due thereon.

As the statute indicates any foreign article offered for sale or in storage must not only show the source but be evidenced by payment of duties and taxes otherwise the same shall be subject to seizure. In the case at bar the records make it clear that insofar as the provision is brought to bear upon the circumstances obtaining, such proof is wanting as to any evidence of the payment of import liabilities on the subject articles thereby inevitably incurring the penalty of forfeiture. The fact that the goods were supposedly procured from the Bureau of Customs and the Export Processing Zone will not relieve the res from the liability to forfeiture since the prophylactic function of Section 2536 mandating the requisite evidence of payment of duties and taxes irrespective of circumstances or intent, has lost none of its efficacy but remains just as valid and effective. "To require less would sanction an expedient arrangement unsustainable either by operation of law or application of settled principles. These proscriptions of securing the integrity of the collection of the lawful dues are no mere ingenuous sophistries conjured out of some quirky insights but are tinged with strong issues of public policy to prevent fraud upon the revenue lest the cornerstone of effective collection be placed in the quicksand of self-interest." (Samhwa Company Ltd. v. Commissioner of Customs, CTA Case No. 3099, July 31, 1981).

Petitioner's quibble on the legal presumption of ownership and possession can hardly be a reassuring prospect that can easily be reconciled with the statutory intendment. It may suffice to state that "the burden of proof in seizure and forfeiture cases shall lie upon the claimant (Section 2535, Tariff and Customs Code)." And this burden, petitioner has failed to satisfactorily discharge. "The legal presumption in Section 5(j) Rule 131 of the Rules of Court and Article 541 of the Civil Code relied upon by the petitioner are of general character and cannot prevail over the specific provisions of the Tariff and Customs Code." (Actg. Commissioner of Customs v. CTA and Andrulis, No. L-62636, April 27, 1984, 129 SCRA 76). Accordingly we feel compelled to affirm the import and force of the respondent's findings which may not be suffered to petrify in futility.

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

SO ORDERED.

Quezon City, Metro Manila, January 29, 1986.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge