

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LEONORA & COMPANY,
Petitioner,

versus

CTA CASE NO. 1615

THE COMMISSIONER OF
CUSTOMS,
Respondent.

x - - - - - x

D E C I S I O N

On January 22, 1954, fifty (50) bags of melon seeds, consigned to herein petitioner, arrived at the port of Manila on board the S/S "DONA BEBANG". The importation was accompanied by a bill of lading and a commercial invoice from Hongkong, but for lack of a consular invoice and a release certificate from the Central Bank or any of its authorized agent banks, it was seized by the Bureau of Customs (Seizure Identification No. 1363) for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code. Pending the seizure proceedings, the goods were released to petitioner under Surety Bond No. G-18318 for ₱1,335.00 executed by the Central Surety & Insurance Company.

On April 19, 1960, after hearing, the Acting Collector of Customs rendered a decision decreeing the forfeiture of the said merchandise and ordering petitioner and its surety to pay, jointly and severally, the sum of ₱1,335.00 within thirty (30) days

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from receipt of notice of the decision. On appeal to herein respondent Commissioner of Customs, the latter affirmed the decision of the Collector on November 9, 1962. Subsequent to the receipt on December 10, 1962 (p. 158, Customs rec.) of a copy of the Commissioner's decision, petitioner interposed a motion for reconsideration.

At this juncture, it may be stated that the date of filing of petitioner's motion for reconsideration is not clear from the records and the pleadings of the parties are in conflict as to said date. While petitioner alleges that its motion was filed on December 13, 1962 (see par. 4, Petition, p. 2, C. T. A. rec.), respondent claims that said motion was filed on December 26, 1962 (see par. 2, Answer, p. 13, C. T. A. rec.).

On March 10, 1965, respondent denied petitioner's motion for reconsideration, which denial was received by petitioner on March 20, 1965 (p. 169, Customs rec.). Petitioner appealed to this Court on April 19, 1965 (p. 1, C. T. A. rec.).

In his answer, respondent raised as one of his affirmative defenses the question of jurisdiction, contending that petitioner's appeal was filed out of time.

The principal issues presented for our consideration in this case are as follows:

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(1) Whether or not this Court has jurisdiction over the instant appeal; and

(2) Whether or not the forfeiture of the questioned importation is valid and in accordance with law.

From the foregoing facts, we find that respondent's affirmative defense is well taken. The thirty-day period for appeal provided in Section 11 of Republic Act No. 1125 had already expired even if we were to consider that the motion for reconsideration of petitioner was filed on December 13, 1962, instead of on December 26, 1962, as claimed by respondent, inasmuch as from December 10, 1962, when petitioner received the decision of respondent, to December 13, 1962, when petitioner filed its motion for reconsideration, 3 days had already elapsed; and from March 20, 1965, when petitioner received notice of the denial of its motion for reconsideration to April 19, 1965 when it filed its petition for review in this Court, a period of 30 days had expired, or a total of 33 days. Therefore, this Court has no jurisdiction to take cognizance of the present appeal.

At any rate, even if we have jurisdiction over the present appeal, the legality of the forfeiture of articles imported in violation of Circular Nos. 44 and 45 of the Central Bank is already a settled matter (See *Andres E. Lazaro v. Comm. of Customs*, G. R. Nos. L-22511 & L-22513, May 16, 1966; *Bienvenido Capulong v. Comm. of Customs*, G. R. No. L-22990, May 19, 1966, and cases cited therein).

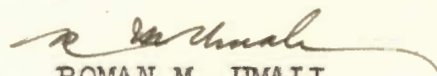
DECISION -
CTA CASE NO. 1615

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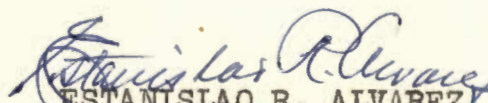
IN VIEW OF THE FOREGOING, the herein appeal is
hereby dismissed, with costs against petitioner.

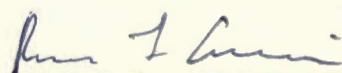
SO ORDERED.

Quezon City, February 20, 1967.


ROMAN M. UMALI
Presiding Judge

WE CONCUR:


ESTANISLAO R. ALVAREZ
Associate Judge


RAMON L. AVANCEÑA
Associate Judge

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