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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LMG CHEMICALS, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 3042

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

1/29/82

D E C I S I O N

Petitioner seeks to vacate respondent Commissioner of Customs' Order of October 10, 1979, dismissing its appeal from the decision of the District Collector of Customs dated December 27, 1978, relative to a claim for refund of allegedly excess duties, taxes and surcharge in the amount of ₱156,651.00.

It appears that petitioner, a domestic corporation, had an importation of 105 metric tons of potassium hydroxide from Yokohama, Japan, which arrived in the Port of Batangas on March 15, 1976, on board the "SS Barnes Star", Registry No. 564, declared under Customs Entry No. 725, Series of 1976, at an FOB price of $388.70 per metric tons as confirmed by the consular and commercial invoices with a dutiable value of $46,119.55 or ₱344,074.90 vis a vis the Collector of Customs' assessment based on the published value of the article at $681.52 per metric ton and a dutiable value of $80,861.00 or ₱603,268.78, the liabilities comparatively computed as follows:

	Collector's Assessment	Petitioner's Declaration	Difference
Customs Duty . .	₱ 60,327.00	₱34,407.00	₱ 25,920.00
Advance Sales Tax	19,216.00	18,082.00	1,134.00
Surcharge . . .	129,597.00	-------	129,597.00
Wharfage	840.00	840.00	------
	₱209,980.00	₱53,329.00	₱156,651.00

Petitioner paid the amount of ₱209,980.00 per Collector's assessment as above-itemized under Official Receipt No. 182702 on March 21, 1978, but disputed the appraisal of the shipment on the basis of the published home consumption value as well as the imposition and collection of surcharge for undervaluation in Protest Case No. 13/78 for a claimed refund of ₱156,651.00 representing alleged excess payment. The Collector of Customs reiterated the correctness of the aforestated assessment and collection and accordingly denied petitioner's claim for refund in a decision dated December 27, 1978, copy thereof was received by petitioner on February 7, 1979.

Thereafter, a notice of appeal was filed on February 20, 1979 by petitioner from the decision of the Collector to the respondent Commissioner of

Customs upon due payment of ₱20.60 in documentary customs stamps under O.R. No. 5247968. The appealed protest was given due course and docketed as Customs Case No. 79/11, which was dismissed by the respondent Commissioner of Customs in an Order dated June 11, 1979 on the ground that the appeal fee consisting of ₱10.00 customs stamp and ₱0.30 documentary stamp was not paid nor affixed on the notice of appeal pursuant to the pertinent provisions of Section 3301 and Section 3303 of the Tariff and Customs Code, as amended, more particularly Paragraph VI of the Customs Administrative Order No. 226 of December 3, 1957, quoted as follows:

> "Paragraph VI. Every protest other than refund of internal revenue taxes mentioned in Paragraph V hereof must have affixed thereto a customs stamp the value of ₱10.00 and documentary customs stamp of ₱0.30, otherwise the same shall not be given due course."

Likewise, a motion for the reconsideration of the aforesaid Order was denied by the respondent in an Order dated October 10, 1979, copy thereof received by petitioner on November 5, 1979. Hence this petition for review filed on November 15, 1979.

The precise issue is immediately recognized as nothing more than whether petitioner failed to perfect an appeal in the manner prescribed by law and regulation.

In dismissing the appeal, respondent maintains fealty to the statutory requisitions, such that, "if the required customs stamp was not yet affixed at the time of filing, the same should be affixed thereto before the reglementary period expires, otherwise, the appeal is not perfected and therefore barred." (R.P. v. M/L "King Star", Customs Case No. 364, September 28, 1971). "The stamps requirement is in the nature of a docket fee and failure to pay the docket fee for appeals on time is fatal." (Lipat v. Commissioner of Customs, CTA Case No. 1442, October 26, 1966). Simply stated, petitioner's notice of appeal has none of the stamps affixed in the correct amount of ₱10.30, the payment of ₱20.60 likewise, in documentary customs stamps, notwithstanding.

To dispel the sprouting impression of non-compliance, petitioner avers that as borne by the records, it did (1) file a notice of appeal within the reglementary period, (2) pay the corresponding fees, ascertained and demanded by the customs cashier in the amount of ₱20.60 for documentary customs stamps as indicated in O.R. No. 5247968 dated February 20, 1979 (Exhibit "A", Petitioner) and the Collector of the Batangas Customshouse pursuant to Section 2308 of the Tariff and Customs

Code, (3) transmitted the notice of appeal together with all the records of the case to the respondent Commissioner of Customs accordingly, (4) docketed as Customs Case No. 79/11. By this, petitioner appears to have fared consistent with the expedient practice infused cognizance by the Bureau of Customs itself, thus, "Instances do occur in the sub-ports of the Bureau of Customs where said offices run out of supply of documentary stamps and appeals are received and/or processed without affixing the same to the notice of appeal, in which event, the recourse of our cashiers is to issue an official receipt in the correct amount in lieu of the customs documentary stamp appeal fee and just annotate the fact of such payment including the number of such official receipt, the date of its issue and the date of filing of the appeal on the notice of appeal itself. This practice has been considered regular and legitimate and customs cashiers are very well aware of this." Petitioner did no less, we agree.

It appears quite evident that at the time of the filing of the notice of appeal both customs officials and petitioner understood and believed that the total amount of ₱20.60 paid for documentary customs stamps includes the questioned appeal fee of

₱10.30, "otherwise the same shall not be given due course" (Par. VI. CAO, supra), as "no such document shall be issued or granted by any customs official until the correct amount of stamps shall have been affixed or cancelled" (Sec. 3301, Tariff and Customs Code). That the appeal was given due course negates any comedy of errors and we deem it but fair not to fashion any further issue. Equity insists upon the conscientious compliance by the customs officials of their duty, otherwise, we must hold the petitioner who has indeed complied and relied on that duty is remediless. Rather than be flummoxed into taking a precipitate action, respondent could have been more circumspect before setting aside the appealed protest upon which petitioner's alleged right to a refund may be exercised or lost.

Whatever pall of uncertainty hanged over the specific purpose of petitioner's payment, we are the better satisfied that the paid amount of ₱20.60 has the merit of being easily understood and readily applied sufficient to meet the effective toll of ₱10.30 for the required docket/appeal fee. If, however, such be a consequence of a bureaucratic fumble or official clumsiness in handling routine administrative process, it will be too much of a stretch to hold petitioner accountable for more than what was called upon it to do. We find a great deal of force in the holding, that, "Where the failure of the appellants to pay the required docket fee was due to the mistake of the municipal treasurer and not to the fault of the appellant for he merely relied on the information given him by said official, for such a mistake, the appellants should not be made answerable, for they acted in good faith relying upon the word of the municipal treasurer who because of the nature of his duties is in a position to know the correct amount of the fees needed to perfect an appeal. To hold otherwise, could be unfair and unjust and would amount to a miscarriage of justice. 'Every citizen has the right to assume and trust that a public officer charged by law with certain duties knows his duties and performs them in accordance with law. To penalize such citizen for relying upon said officer in all good faith is repugnant to justice.' (Segovia v. Barrios and Bretana, (75 Phil. 764.)" (Tagulao v. Padlanmundok, L-15550, May 30, 1960; cited in Barnido, et al. v. Balana, et al. L-26275, July 26, 1966, 17 SCRA 660).

We conclude, and this is all what we need decide, that petitioner has substantially complied with the requisites prescribed by law and regulations for perfecting an appeal.

WHEREFORE, the Order appealed from is set aside with directions for further proceedings on the merits of the case. No costs.

SO ORDERED.

Quezon City, Metro Manila, January 29, 1982.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge