REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

FRANCISCO PASCUAL,
Petitioner,

- versus - C.T.A. CASE NO. 95

EDILBERTO Y. DAVID,
Respondent.

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April 21/56

# RESOLUTION

This is an appeal from the decision of the respondent Commissioner of Customs, dated February 12, 1955, affirming the order of the Collector of Customs of Manila in Seizure Proceedings No. 1783, declaring forfeited in favor of the Government a shipment of 28 packages of chocolate under 'no-dollar remittance' basis consigned to the petitioner herein. This case has been submitted on an agreed stipulation of facts.

Without going into the merits of the case, we are constrained to dismiss the petition for review on a jurisdictional question which has been raised by counsel for respondent in their memorandum.

Respondent thru counsel contends that the Commissioner of Customs had no longer the power and authority to review by appeal the decision of the Collector of Customs in Seizure Case No. 1783 because the aggrieved party, the petitioner herein, failed to have the matter reviewed within the fifteen (15) days period prescribed by section 1380 of the Revised Administrative Code. Such being the case, respondent therefore maintains that there was nothing that could be appealed to this Court.

It is evident from the pleadings of the case that respondent's stand is well taken. The agreed stipulation of facts submitted by the parties show that the Acting Collector of Customs, on January 21, 1955, rendered a decision in Seizure Proceedings No. 1783. A copy of said decision was received by petitioner's counsel on January 25, 1955 (par. 5, Stipulation of Facts). The appeal to the Commissioner of Customs was taken by the petitioner on February 10, 1955. A computation of the time or period consumed by the petitioner in making this appeal clearly shows that sixteen (16) days had been consumed by him. This is one day in excess of the period of limitation prescribed by section 1380 of the Revised Administrative Code, which we quote:

> "The person aggrieved by the decision of the Collector of Customs in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the Collector of his action or decision, give written notice to the Collector signifying his desire to have the matter reviewed by the Commissioner." (Underscoring supplied)

Our Supreme Court in the case of Sy Man vs. Alfredo Jacinto and Melecio Fabros (G.R. No. L-5612, promulgated October 31, 1953), in interpreting said section 1380 of the Revised Administrative Code, held:

> "If the person aggrieved by the decision of the Collector in a seizure case does not make such appeal, the decision evidently becomes final, at least as to him . . . . "

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> "In conclusion, we find and hold that under the present law governing the Bureau of Customs, the decision of the Collector of Customs in a seizure case if not protested and appealed by the importer to the Commissioner of Customs on time, becomes final not only as to him but against the Government as well, and neither the Commissioner nor the Department Head has the power to review, revise, or modify such unappealed decision."

For failure of the petitioner to avail of the remedy by appeal within the required period, the decision of the Collector of Customs had therefore become final and the affirmance of such decision by the respondent was purely academic. There was therefore no decision that could be brought on appeal to this Court.

IN VIEW OF THE FOREGOING, we find and so hold that the decision of the Acting Collector of Customs in Seizure Proceedings No. 1783, dated January 21, 1955, has become final and executory and therefore unappealable. The petition for review should be, as it is hereby, dismissed, with costs against the petitioner.

SO ORDERED.

Manila, Philippines, April 21, 1956.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge