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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

TEXTILE MILLS ASSOCIATION
OF THE PHILIPPINES, INC.,
and JOSE R. QUINTOS,
Petitioners,

-versus-

C.T.A. CASE No. 1999

THE ACTING COMMISSIONER OF
CUSTOMS, THE COLLECTOR OF
CUSTOMS FOR THE PORT OF
MANILA, THE REPARATIONS
COMMISSION, ARNULFO G.
QUINTANS, and THE LEGION-
NAIRES ENTERPRISES, INC.
(PVL),
Respondents.

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Sept. 30/89

R E S O L U T I O N

This is an original petition for a writ of preliminary preventive and mandatory injunction to restrain the Acting Commissioner of Customs and the Collector of Customs for the Port of Manila from releasing three shipments of reparations goods specifically described in paragraphs two (2) and three (3) of the petition, and, as regards respondent Reparations Commission, Arnulfo G. Quintans, and Legionnaires Enterprises, Inc. (PVL), for a similar restraining order enjoining them from soliciting or procuring the release of said shipments. It is likewise prayed, that, after hearing, said writ of preliminary preventive and mandatory injunction be made permanent; that said shipments be declared illegally processed and imported; that the same be ordered returned to the shipper in Japan, or otherwise disposed of by this Court in accordance with law.

The petitioner is allegedly a non-profit and non-stock corporation with office address at Suites 2-33, 34 and 35, Zamora Annex, Manila Hotel, Manila, composed mainly of integrated textile mill companies of the Philippines and engaged in the manufacture of products the same as or similar to the goods now in question.

The petition alleges that sometime in October, 1966, two shipments of reparations goods consisting of sixty-nine (69) packages and seventy (70) packages of Tetoron and Cotton Blended Broad Cloth arrived at the Port of Manila from Yokohama, Japan, aboard S/S "ZAMBOANGA" consigned to the Reparations Commission, Manila, with the Legionnaires Enterprises, Inc. (PVL) as end-user. Again, on September 15, 1968, another shipment of reparations goods consisting of two hundred and nine (209) cases of synthetic fabrics arrived at the Port of Manila from Kobe, Japan, on board S/S "EASTERN MARS" likewise consigned to the respondent, Reparations Commission, Manila, with Legionnaires Enterprises, Inc. (PVL) as end-user. All of said goods are now stored in the warehouses within the Customs Zone.

It is further alleged that said shipments, with an approximate value of $250,000.00 or ₱1,000,000.00, were procured and imported tax free in violation of Republic Act No. 1789, otherwise known as the Reparations Act, as amended by Republic Act No. 3079 and, consequently, would result in depriving the Government of taxes and customs duties in the amount of ₱1,900,000.00 aside from constituting an unfair competition to petitioner and its members. For this reason, petitioner, on October 11, 1968, and December 19, 1968 protested and objected to the release of said shipments on the grounds of illegality of procurement and non-payment of duties and taxes, but respondent Commissioner of Customs failed to act on the matter save to give information that no release would be made without clearance from his office.

Finally, it is alleged that due to the persistent efforts of respondent Arnulfo G. Quintans as Director of the Inspection and End-Use Department of the Reparations Commission, and of respondent Legionnaires Enterprises, Inc. (PVL), the Acting Commissioner of Customs has already authorized or is about to authorize the release of all the three above-questioned shipments; that any ruling, decision, or action of the Acting Commissioner of Customs authorizing the release of the shipments in question would be in violation of Republic Act No. 1789, otherwise known as the Reparations Act, as amended by Republic Act No. 3079; that the threatened acts of respondents, if consummated, would render any judgment of this Court ineffectual and cause it irreparable injury; and that petitioner has no other plain, speedy and adequate remedy unless this Court, during the pendency of this case, issues against respondents the writ prayed for.

Respondents, after service of summons, separately moved for the dismissal of the petition on the ground that this Court has no jurisdiction to entertain the petition because there is as yet no decision which is appealable to this Court, pursuant to Section 7 of Republic Act No. 1125, which provides:

> "SEC. 7. Jurisdiction. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
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> x x x x
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> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs."

Respondents' stand is well taken. Since respondent Commissioner of Customs has not yet acted on petitioner's protest and, therefore, there is no appealable decision, the present petition for a writ of preliminary preventive and mandatory injunction is premature. The statute has not conferred upon this Court original jurisdiction to issue such writ independently of, or apart from, its appellate jurisdiction. In a previous case (Collector of Internal Revenue vs. J. C. Yuseco, et al., G.R. No. L-12518, October 28, 1961), it was held:

> "x x x Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case. The writ of prohibition or injunction that it may issue under the provisions of section 11, Republic Act No. 1125, to suspend the collection of taxes, is merely ancillary to and in furtherance of its appellate jurisdiction in the cases mentioned in section 7 of the Act. The power to issue the writ exists only in cases appealed to it. This is reflected in the explanatory note of the bill (House No. 175), creating the Court of Tax Appeals."

WHEREFORE, the herein petition is hereby dismissed. No costs.

SO ORDERED.

Quezon City, September 30, 1969.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge