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conditionally free importation

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MANUEL S. OUANO,
Petitioner,

- versus -

C.T.A. CASE NO. 5134

HON. GUILLERMO L. PARAYNO, JR., in his capacity as COMMISSIONER OF CUSTOMS,
Respondent.

Promulgated:

MAR 24 1997

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DECISION

Disputed in this case is a compromise assessment on duties and taxes issued by the respondent against the petitioner in the amount of P200,000.00 on the latter's purchase of a motor vehicle.

It appears that on October 26, 1990, petitioner, after allegedly having examined the papers covering the sale, including payment of customs duties and taxes and if the same is registrable with the Land Transportation Office, bought from a certain Mr. Felix A. Lakambra, Jr. thru 45 Automart, a car dealer, said motor vehicle which is described as follows (Exh. B):

Make	:	Nissan Pathfinder
Model	:	1988
Type	:	2400 Patrol Jeep
Serial No.	:	WNUDZI-002617
Motor No.	:	Z24-140621
Plate No.	:	OEV-15756
File	:	4PE-6632

Petitioner was able to register the vehicle for the years 1990, 1991, 1992 and 1993. In 1994, however, petitioner was denied re-registration of the vehicle in view of the non-issuance of a clearance therefor by the Bureau of Customs' Customs Clearance Unit in the Land Transportation Office (BOC/CCU-LTO) pursuant to Executive Order No. 90 series of 1993.

On May 3, 1994, petitioner wrote herein respondent Commissioner of Customs a letter commenting on the action of the BOC/CCU-LTO and appealing to the Commissioner to exempt him from the compromise assessment.

The factual milieu leading to the present controversy is succinctly stated in the aforesaid letter, to quote:

> "Whereas, on February 6, 1988 a certain Mr. Keiichi Aoki, a staff representative of Overseas Economic Cooperation Fund (O.E.C.F.) of Japan in the Philippines brought into the country one unit of motor vehicle, a Nissan Pathfinder 2400 Patrol, Model WNYD21FC42 with engine no. Z24140621 and chassis no. WNYD21-0029617 via on board Vessel Eastern Comet Vog. 55S under B/L YMA-54.
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> On Feb. 9, 1988, the consul of Japan Embassy Mr. Akihito Furoya sent letter no. 50-A-88 (Exhibit A) requesting the Director of Protocol for Privileges and Immunities, Dept. of Foreign Affairs for the free entry of the shipment and the same was granted Tax Exempt status per Certificate of Payment "Exempted" No. 094410A dated March 3, 1988 (Exhibit E) and was registered with the LTO Diliman Office per Certificate of Registration No. 1945324 dated March 23, 1983 (Exhibit C).
>
> Whereas, Mr. Keiichi Aoki decided to sell the said vehicle to a certain Mr. Felix A. Lakambra, Jr. of No. 1312A San Diego St., Sampaloc, Manila. On Oct. 1, 1990, a Deed of Sale of Motor Vehicle (Exhibit D) was signed

between Mr. Keiichi Aoki and Mr. Felix Lakambra Jr.

On Oct. 12, 1990, Mr. Lakambra sent a letter (Exhibit E) to the Hon. Secretary of Finance that he be allowed to pay the Customs Duty and Taxes for the abovementioned vehicle. Together with the letter, an endorsement of no objection to the sale from the Dept. of Foreign Affairs (Exhibit F) and Dept. of Finance (Exhibit G) endorsing approval of sale.

On Oct. 18, 1990, Mr. Lakambra filed an [I]nformal Entry No. LP-242-90 (Exhibit H). The Bureau of Customs through its examiner Mr. O. Gotladera, Appraisers N.L. Briar and Leticia David per their findings (Exhibits H & I) appraised a Duty/Taxes of ₱49,500.00 and the amount was collected by Collecting Officer N.D. Tomas per O.R. No. 32758835 dated October 23, 1990 (Exhibit J) and a Certificate of Payment No. 138197 dated Oct. 24, 1990 was issued by Deputy Collector Julita S. Manahan (Exhibit K).

Whereas, on the merit of CP#138197 the vehicle was placed on display for sale at 45 Automart in Timog Ave., Quezon City. The undersigned a legitimate public buyer saw the vehicle on display and Inquired from the managers of 45 Automart Messrs. Nilo Pazcoguin and Sammy Tan if the corresponding Taxes/Duty were duly paid. They showed the CP No. 138197 to attest payment.

Whereas on Oct. 26, 1990 a Deed of Sale of Motor Vehicle was drawn (Exhibit L). [A]n earnest money was deposited with 45 Automart on a condition that full payment shall be paid only upon completion of the transfer and registration of the vehicle with the LTO in the name of Manuel S. Ouano, the undersigned. On Nov. 26, 1990 the vehicle was registered with the Land Transportation Office, Dillman per Certificate of Registration No. 06887867 (Exhibit M), on the basis of CP No. 138197 and Deed of Sale. The annual renewal of the vehicle's licence was no problem for the last succeeding 3 years. However, when the vehicle was brought for renewal of license last April

> 12, 1994, it was required to secure a Customs Clearance as per E.O. 90.
>
> The BOC-CCU in Diliman LTO through its appraiser/examiner Mr. Severino Esplana reassessed the vehicle (Exhibit N) and levied a compromise tax of P200,000.00 for the undersigned to pay.
>
> The undersigned could not believe and understand why he should be made to pay for a compromise Customs Duty/Taxes when the Customs Duty/Taxes were already paid by the previous owner Mr. Felix A. Lakambra Jr. per CP No. 138197 (Exhibit K).
>
> Based on the merit of the above Certificate of Payment, the undersigned decided the purchase of the said vehicle. And on the same merit, the LTO has accepted the Certificate of Payment and effected the transfer of the vehicle's ownership registration.
>
> I am very much aggrieved that I am made now to pay a compromise Customs Duty/Tax when in the first place, I did not have any direct dealing with the Bureau of Customs. I am just a legitimate buyer of good faith. Requiring the undersigned to settle the deficiency is grossly immoral, unjust, oppressive and confiscatory xxx." (Annex "C", Petition for Review, pp. 9-10, CTA rec.; Admitted in the Answer, p. 59, CTA rec.)

In response, the Commissioner of Customs sent herein petitioner a demand letter dated May 31, 1994 for the payment of the amount of P200,000.00 with the additional information that his office has started initiating formal legal action against the subject vehicle.

In a letter, dated June 2, 1994, petitioner further appealed for a reconsideration of his situation and interposed the following arguments, to wit:

> "We do not intend to deny or thwart and much less, try to block the payment of duties due the government on the subject vehicle, but we are only appealing to your kind consideration in having the levy or demand for payment of the deficiency taxes be directed to the right person, in accordance with the provision of the Tariff and Customs Code of the Philippines (TCCP) particularly Section 1204 thereof. xxx.
>
> It maybe mentioned that the principle of "CAVEAT EMPTOR" shall not apply to the herein purchaser in good faith from Felix Lakambra, Jr. who, when asked precisely of the papers like Payment of Customs Duties/Taxes, which was available and presented, was able to satisfy and convinced the herein third legitimate purchaser that nothing more was there to block the sale of the vehicle in question. It could even be said that with the issuance of the Certificate of Payment, there could be no more further assessments on the vehicle in accordance with the provision of Section 1603 of the TCCP on the finality or termination or liquidation of taxes after the period of one (1) year, considering that the payment made and Certificate issued was not tainted with fraud and neither was it issued temporarily." (Annex "D", Petition for Review, pp. 12-13, CTA rec.)

On July 21, 1994, respondent sent his letter of reply (Exh. A) to petitioner's letter of June 2, 1994. In it, respondent made it clear for the last time that his office could not deviate from its previous stand and made the following observations and comments, to wit:

> "We observed from the documents you have presented to this office particularly the certificate of payment No. 138197, which is one and the very first document being looked into by one purchasing motor vehicle, that the motor vehicle indicated/described therein is a Nissan patrol Pick-Up model 1987 and not what you were actually buying which is a Nissan Pathfinder Model 1988. From this document alone, had you exercised great care, you will notice the

irregularity attending the release of your motor vehicle from the Bureau of Customs. It is inconceivable, with this very apparent evidence of irregularity, to consider you as an innocent purchaser in good faith.

With respect to your other claim, that with the issuance of the Certificate of Payment, there could be no more further assessment on your motor vehicle in accordance with the provision of Section 1603 of the TCCP, We beg to disagree.

The liquidation of an import entry will become final at the expiration of one year from the date of Liquidation only, ***in the absence of fraud****. In the case at [b]ar, evidence of fraud is very apparent, so even, after the expiration of one year from the date of its liquidation, the same will not attain finality. Documents of your motor vehicle clearly show and was found out by our BOC-CCU-LTO Unit that the motor vehicle in your possession was misdeclared and assessed as Nissan Patrol Pick-Up gasoline 2,000 cc., despite of the fact that its actual model is Nissan Pathfinder Model 1988 Gasoline 2,400 cc. Based on this wrong declaration/description, the duties and taxes was assessed at FORTY NINE THOUSAND FIVE HUNDRED PESOS (P49,500.00) only instead of TWO HUNDRED EIGHTY SIX THOUSAND AND SEVENTY SIX PESOS (P286,076.00) giving a discrepancy of TWO HUNDRED THIRTY SIX THOUSAND FIVE HUNDRED SEVENTY SIX PESOS (P236,576.00) to the prejudice of the government. (Pls. see the discrepancy report of Mr. Severino Esplana which we have attached in our 1st letter dated 31 May 1994).* (Exh. A-1, Italics supplied)

With so many cases similarly situated, E.O. 90 was promulgated giving authority to the Bureau of Customs thru the Customs Clearance Unit in the Land Transportation Office (CCU-LTO) to re-assess the duties and taxes paid on the motor vehicles with year models 1988 to 1992, hence, previous assessments on these motor vehicles become tentative." (Exh. A, p. 70, CTA rec.)

Hence, this appeal.

Both parties raised the same issues, namely:

(1) whether or not the deficiency tax on subject vehicles under E.O. No. 90 is collectible from the importer and/or the first buyer as provided for under Section 1204 of the Tariff and Customs Code of the Philippines (TCCP); and

(2) whether or not petitioner is entitled to exemption from paying the tax being a second buyer in good faith.

After a careful review of the facts and issues attending the case at bar, We deem it appropriate to tackle first the elementary issue of whether or not fraud has been committed in the liquidation of the informal entry covering the importation of the subject vehicle as its resolution goes into the merit of eventually determining the validity of the compromise assessment and the rightful person, be it the importer and/or the first buyer or the second buyer In the instant case, who should be paying the deficiency taxes.

It must be noted that petitioner has invoked the provisions of Section 1204 of the TCCP regarding the person directly liable to pay the duties and taxes on imported articles and Section 1603 of the same Code in the finality of liquidation of taxes after the period of one (1) year from the date of final payment of duties. Said Sections provide as follows:

> "SEC. 1204. *Liability of Importer for Duties.* - Unless relieved by laws or regulations, the liability for duties, taxes,

> fees and other charges attaching on importation constitutes a personal debt due from the importer to the government which can be discharged only by payment in full of all duties, taxes, fees and other charges legally accruing. It also constitutes a lien upon the articles imported which may be enforced while such articles are in custody or subject to the control of the government."
>
> "SEC. 1603. *Finality of Liquidation.* - When articles have been entered and passed free of duty or final adjustment of duties made, with subsequent delivery, such entry and passage free of duty or settlement of duties will, after the expiration of one year, from the date of the final payment of duties, in the absence of fraud or protest, be final and conclusive upon all parties, unless the liquidation of the import entry was merely tentative." (Emphasis supplied)

On the above, respondent countered that the liquidation of an import entry will become final at the expiration of one year from the date of liquidation only, in the absence of fraud. He claimed that evidence of fraud is very apparent in the case at bar, hence liquidation cannot attain any finality. Such a finding of fraud was allegedly based on a showing of wrong declaration and description of the subject vehicle as a 1987 Nissan Patrol Pick-Up with 2,000 cc. piston displacement despite of the fact that its **actual model** is a 1988 Nissan Pathfinder with 2,400 cc. piston displacement thus resulting in the lesser assessment of P49,500.00 instead of P286,076.00 (Exh. A-1).

We ardently believe that in order for the respondent to be able to collect at all or commence any forfeiture action he must first and foremost prove before this Court that the importer or his representative committed fraud in the liquidation of the imported vehicle. Otherwise, the same shall be considered liquidated with finality and no recourse to compromise assessment or forfeiture proceedings can be validly instituted.

In the case of **Farm Implement and Machinery Co. vs. Commissioner of Customs, 24 SCRA 905,** the Honorable Supreme Court enunciated the doctrine, thus:

> "Fraud is never presumed. It must be proved (**Republic v. Ker and Company, Ltd., L-21609, Sept. 29, 1966**). Failure of proof of fraud is a bar to forfeiture. The reason is that 'forfeitures are not favored in law and equity (**Yu Phi Kim v. Amparo, 86 Phil. 441, 446**)."

We come therefore to the usual difficult task of ascertaining the presence of fraud from the evidence available at bar.

We are disappointed. Respondent never aimed at proving the element of fraud before this Court. The records show that respondent failed to offer in evidence any scintilla of testimonial or documentary proof to bolster its allegation of fraud **a quo**. Respondent cannot just rest on its laurels on its finding that fraud is very apparent. Jurisprudence commands that it be so proven before it can be accepted as a matter of fact.

Notwithstanding the failure of the respondent to prove its case, we nonetheless consider it appropriate, for the sake of legal clarity, to examine the evidence obtaining as submitted by the petitioner. An analysis of the Informal Import Declaration and Entry form of the subject vehicle with Entry No. LP-242-90 (Annex "E" of the petition) would reveal that only the description of the vehicle as a 1987 Nissan was declared. The finding that the vehicle is a 1987 Nissan Patrol Pick-Up with a 2,000 cc. piston displacement and a dutiable value of $3,900.13 was, on the face of the document (rear portion), arrived at solely by the examiner concerned, in the person of Mr. O. Gotladera.

From the above, We submit that it is incorrect for the respondent to state that since the description of the subject vehicle and the value thereof was misdeclared, there was fraud attending its liquidation (Exh. A-1, supra). For one, the importer of said vehicle, Mr. Keiichi Aoki, being a staff representative of Overseas Economic Cooperation Fund (O.E.C.F.) of Japan in the Philippines, was exempt from duties and taxes the same having been granted a Tax Exempt Status per Certificate of Payment "Exempted" No. 094410A, dated March 3, 1988.

When the motor vehicle was sold in October 1, 1990 by Mr. Aoki to one Mr. Felix A. Lakambra Jr., the latter paid the customs duties/taxes in the amount of P49,500.00 under O.R. No. 32758835, dated October 23, 1990 and Certificate of Payment No. 138197, dated October 24, 1990, reproduced hereunder as follows:

B.C FORM NO. 162

No. 138197

Certificate of Payment

THE REGISTRAR
BUREAU OF LAND TRANSPORTATION October 24, 1990
East Ave., Q. C.

This is to certify that Mr. Felix A. Lakambra, Jr. *of* No. 1312-A San Diego Street, Sampaloc, Manila *paid the amount of* Forty Nine Thousand Five Hundred pesos only *pesos* (P49,500.00) *under Informal Entry No.* LP#242 *dated* 10-18-90 *and Official Receipt No.* 32758835 *dated* 10-23-90 *covering duties, taxes and other charges on Motor Vehicle* Nissan Patrol Pick-Up '87 *sold or transferred to him by* local purchase *a tax-exempt/non-tax exempt person, and registered under our Registry No.* NA

NOTE

Vehicles coming into this country as TAX-EXEMPT shall be subject to payment of customs duty, taxes and other charges upon transfer to non-exempt individual or entity. Please DO NOT REGISTER unless original hereof is received directly from our office.

This certificate is prepared

change or erasure will invalidate the same.

(Sgd.) JULITA S. MANAHAN
Deputy/Collector of Customs

CERTIFICATE OF VEHICLE PHYSICAL CHECK-UP

Make : Nissan Patrol Pick-Up Engine No. Z24-140621W

Model: 1987 Type: 2dr.-4cyl. Serial No. WNYD21002617

I HEREBY CERTIFY that I have actually made a personal physical check-up of the subject vehicle and found the above stated data to be true and correct.

(Sgd.) O. Gotladera
Examiner

Mr. Lakambra, Jr. did not declare any value in the Informal Import Declaration and Entry No. LP-242-90. Thus, to accuse anyone of them of misdeclaration would be rather unjustified. Added to this, it is an acknowledged fact that the Customs Bureau uses a red or blue book as a reference material in the valuation of motor vehicles coming from abroad. The taxes and duties paid by Mr. Lakambra, Jr. were therefore duly ascertained from said book despite the alleged misdeclaration.

Secondly, the value of the subject vehicle and the corresponding duties and taxes paid thereon were made by the concerned examiner, appraiser and the assessor of the respondent. Being public officers, the presumption is that their official duties, as regards the liquidation of the import entry, were regularly performed [Section 3(m), Rule 131, Revised Rules of Court]. Respondent does not cast any doubt on the actions of its officers involved, hence, the presumption remains unrebutted.

We observed also that in the letter of Mr. Felix A. Lakambra, Jr., dated October 12, 1990, addressed to the Honorable Secretary of Finance (Exh. C-1), he stated therein that the motor vehicle was a 1988 Nissan. However, in the First Indorsement, dated October 16, 1990, made by Mr. Antonio P. Belicana, Assistant Secretary Revenue Operations Group of the Department of Finance, to the Commissioner of Customs, the subject vehicle was referred to as a 1987 Nissan (Exh. C-2) per Note Verbale No. 903482, dated August 28, 1990, of the Department of Foreign Affairs (Exh. C-3) on the request of Mr. Keiichi Aoki to sell his vehicle.

It can be gleaned from the preceding facts that the motor vehicle was officially described by the Department of Foreign Affairs and Department of Finance and even by the Customs officers themselves in the Informal Import Declaration and Entry as a 1987 Nissan, despite the averment of Mr. Lakambra, Jr. that the same is a 1988 model. Without respondent's contrary proofs, We thus find nothing sinister as to induce Us to entertain any idea of fraud as having been committed.

Obviously, respondent based its allegation of fraud on the Deed of Sale (Exh. B) and the Certificate of Registration of the motor vehicle (Exh. E) which describe it as a 1988 Nissan Pathfinder with a piston displacement of 2,400 cc. On this score, We reiterate that respondent should have taken the energy and the foresight to prove the element of fraud before this Court. We readily add that the discrepancy in the year model and piston displacement of the motor vehicle is not enough for us to say that fraud is present in the case at bar.

Could it have been a case of honest mistake by the respondent's officers when they described the vehicle as a 1987 Nissan, in conformity with the Note Verbale of the Department of Foreign Affairs and the indorsement of Mr. Belicena of the Department of Finance? (Exhs C-3 and C-2, respectively) This is specially relevant when We consider that Mr. Lakambra, Jr. did not hesitate to hide the year model of the vehicle as a 1988 NIssan, as borne out by his letter of October 12, 1990 to the Hon. Secretary of Finance.

The above is just one among several questions and views that needed to be threshed out before one can arrive at a conclusion of fraud. Unfortunately, respondent did not prosecute its case as normally expected.

In fine, respondent has no cause of action against the petitioner in the collection of the alleged compromise assessment. With respondent's failure to prove fraud, the liquidation of the import entry had long become final and conclusive upon *all* parties, the petitioner included, pursuant to Section 1603 of the TCCP. This also means that respondent cannot effect any seizure or forfeiture proceeding against the petitioner pursuant to Section 2530 of the TCCP in the absence of fraud. As stated by the Honorable Supreme Court in the case of **Farm Implement and Machinery Co. vs. Commissioner of Customs, supra,** failure of proof of fraud is a bar to forfeiture.

Prescinding from the above, this Court would like to make a categorical answer, for the sake of further legal clarity, on the twin issues posed by herein parties, although admittedly, they are no longer material to the resolution of the instant case.

Anent the first issue, it is not amiss to point out that Section 3 of E.O. No. 90 mandates that the registered owners of taxable imported motor vehicles are the very persons liable for the payment of the compromise assessment on the required taxes, duties and fees on imported motor vehicles. On this score, respondent cannot be faulted from collecting the compromise assessment from the petitioner, who undeniably is the registered owner of the vehicle in question.

On the other hand, petitioner puts forth the proposition that he is not the one liable to pay inasmuch as he is an innocent buyer in good faith. He asserts that the original importer, Mr. Aoki, or the first buyer, Mr. Lakambra, Jr., are the persons who should be responsible to pay the liability (Annexes C and D of the Petition). In support thereof, petitioner cites the provision of Section 1204 of the TCCP, supra, which describes said liability as a personal debt due from the importer.

At the outset, a clarification is in order with respect to Mr. Aoki's alleged liability. It must be noted that under Section 105(k) of the TCCP, Mr. Aoki's importation of the subject vehicle was conditionally-free and exempt from the payment of import duties. Said section states, thus:

> SEC. 105. *Conditionally-Free Importations.* - *xxx.*
>
> (k) Importations for the official use of foreign embassies, legations, and other agencies of foreign governments: *Provided*, That those foreign countries accord like privileges to corresponding agencies of the Philippines.

> Articles imported for the personal or family use of the members and attaches of foreign governments: *Provided*, That such privileges shall be accorded under special agreements between the Philippines and the countries which they represent: *And Provided, further*, That the privilege may be granted only upon specific instructions of the Minister of Finance in each instance which will be issued only upon request of the Ministry of Foreign Affairs.

It can be discerned readily from the above provision that Mr. Aoki, being a representative of the O.E.C.F of Japan to the Philippines, is entitled to tax-exempt importation of the vehicle in question and should not be made liable to any customs liability at all. In fact, Mr. Aoki was actually granted a tax-exempt status per Certificate of Payment "Exempted" No. 094410A, dated March 3, 1988, supra.

As regards Mr. Lakambra, however, We find petitioner's contention partly impressed with merit. Section 1204 of the TCCP, as abovequoted, states plainly that "... the liability for duties, taxes, fees and other charges attaching on **importation constitutes a** PERSONAL DEBT due from the importer..." (emphasis supplied). We construe such obligation to pay as something that is exclusively relating to or affecting the individual of Mr. Lakambra only. The obligation to pay cannot be deemed to have passed on to the petitioner on account of the sale of the vehicle to him. Respondent has the mistaken notion that petitioner has been "..SUBROGATED to the rights and obligations of the importer..."(Answer, p. 2, emphasis supplied), *ergo*, the obligation to pay has been passed on correspondingly.

It must be noted that, as to legal effect, subrogation transfers to the person subrogated the credit with all the rights thereto appertaining, either against the debtor or against third persons, be they guarantors or possessors of mortgages, subject to stipulation in a conventional subrogation (Article 1303, New Civil Code of the Philippines).

What is transferred in a subrogation is the CREDIT of the person subrogated. In the case at bar, respondent is saying that through subrogation, the personal debt of the importer is subrogated to the petitioner. Obviously, respondent is manifestly wrong in his application of the law on subrogation.

With Our observation that the liability to pay falls upon the importer (Mr. Lakambra, in this case) the validity of E.O. No. 90 insofar as it requires registered owners like the petitioner to pay the liability is somehow put into question. At this point, however, We refuse to give any definite ruling on the status of said E.O. in view of the lack of any direct action assailing its legality or validity.

Viewed from its proper perspective, thus, herein petitioner is not under any obligation to pay the liability but rather, it is the importer, Mr. Lakambra, Jr. who is personally liable therefore. Respondent must demand and seek the collection of the personal liability from the latter.

This is not to say, however, that the petitioner is all scot-free from the present controversy. It must be observed that Section 1204 of the TCCP, supra, succinctly provides that the liability to pay "also constitutes a *lien* upon the articles imported which may be enforced while such articles are in custody or subject to the control of the government."

A "lien" has been defined as a hold or a claim which one person has upon the property of another as a security for some debt or charge **(Philippine Law Dictionary, 3rd edition, p. 556)**.

In a case where the demand to collect the personal debt due fails, the respondent may alternatively enforce its lien on the subject vehicle of the petitioner through a forfeiture proceeding that is in the nature of an action *in rem* or one directed against the *res* itself.

With regard to the second issue, We believe that petitioner's contention on the matter is quite misplaced. Good faith is never considered in so far as the obligation to pay customs liability or exemption from it is concerned. The TCCP prescribes specifically that customs liability pertains to the importer and that at the same time, it is also constituted as a lien on imported articles. Whether or not there is good faith, the respondent can enforce its lien on imported goods.

Likewise, a look into the wordings of Section 101(b) of the National Internal Revenue Code on value-added tax on importation of goods which is a companion provision of Section 1204 of the TCCP, would reveal that the tax due on importation constitutes "a lien on the goods superior to all charges or liens on the goods, irrespective of the possessor thereof." (underscoring supplied). Consequently, subsequent possessors of imported goods cannot invoke good faith for as long as the lien on those goods subsists.

However, the right of the government to run after the thing is not forever available but may also be barred by prescription. Be it qualified, that in the case at bar as abovediscussed, We have arrived at the conclusion that the liquidation of the import entry covering the vehicle in question had long been final and conclusive upon all parties pursuant to Section 1603 of the TCCP.

WHEREFORE, in view of the foregoing, the compromise assessment demanded against petitioner by the respondent in its letters dated May 31, 1994 and July 21, 1994 in the amount of P200,000.00 is hereby **CANCELLED** and **SET ASIDE.**

ACCORDINGLY, respondent is **permanently enjoined** from effecting the issuance of the Warrant of Seizure and Detention against the subject vehicle. The cash bond posted by the petitioner in the amount of P200,000.00, acknowledged under Official Receipt No. 0971399U, dated August 25, 1994, issued by Court is hereby ordered release and the amount thereof returned to the petitioner immediately. No costs.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

I CONCUR:

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation with the member of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals