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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ONE (1) UNIT ISUZU PICK-UP MOTOR VEHICLE BEARING PLATE NO. CG-603, CHASSIS NO. SK 967025,

ONE (1) UNIT HINO TRUCK TRACTOR, PLATE NO. CFP-430 CHASSIS NO. HH341-10174,

CONSOLIDATED PLYWOOD INDUSTRIES, INC.,

Petitioner,

- versus - C.T.A. CASE NO. 4613

3/2/93

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - - - - - x

D E C I S I O N

This present case involves the seizure by the respondent of the petitioner's two vehicles as violative of Customs Laws, particularly Section 2530(f), l(1) and (5) [Revised Tariff and Customs Code].

On October 11, 1989, two (2) separate Warrants of Seizure and Detention were issued by the District Collector of Customs, Port of Davao covering one (1) Unit Isuzu Pick-up and One (1) Unit Hino Truck Tractor, owned by herein petitioner. (See Annexes C and C, pp. 17 and 18, CTA Records).

On October 16, 1989, petitioner through its Vice-President Benito Mesina posted a bond under protest for the one (1) unit Isuzu Pick-up in the amount of P31,670.00 (see Exh. "C-1", p. 107, CTA Records). The questioned vehicle was subsequently temporarily released for thirty (30) days to the owner/claimant after the Warrant of Seizure and Detention was lifted by the Collector of Customs (see Exh. "C", p. 104, *ibid*).

On October 31, 1989 a Motion for Reconsideration was filed to make the order lifting the Warrant of Seizure and Detention permanent in character. Such Motion for Reconsideration was denied by the Collector of Customs "for lack of merit" on April 30, 1990 (see Annex C, p. 26, *ibid*).

On May 15, 1990, petitioner filed a Petition for Review before the Commissioner of Customs with regard to the denial of its Motion for Reconsideration received on April 30, 1990, involving the one (1) Unit Isuzu Pick-up. In its Petition for Review, (Annex E, pp. 19-25, *ibid*) petitioner bewailed the denial of the Motion for Reconsideration for being "unjustified on the ground that "the owner-claimant acquired the vehicle in question in good faith under a bona fide deed of sale as clearly indicated in the registration certificate with 'PC clearance'." (*ibid*, p. 22). And since "the vehicle in question is already duly registered with the Land Transportation Office, with 'PC clearance', and therefore, is no longer within the jurisdiction of the Bureau of Customs to detain or hold the same in its custody for the purpose of determining liability of such duties or fees " (*ibid*)

On May 28, 1990, petitioner filed a Petition for Review before the Commissioner of Customs with regard to the denial of its Motion for Reconsideration received on May 8, 1990 involving the other vehicle (Hino Truck Tractor). In its defense, petitioner invoked the same ground of good faith in its acquisition of the questioned vehicle, the same having been duly registered with the Land Transportation Office. According to the petitioner, "as a mere transferee for valuable consideration and in good faith, the Consolidated Plywood Industries, Inc., has all the attributes of clean ownership and free from all lien over the said personal property in question, even as to its possession and control. Any sort of deprivation thereof shall certainly amount to an arbitrary and despotic rule in the showing of its source" (Annex F, p. 31, CTA Records).

On October 12, 1990, the Commissioner of Customs dismissed the Petition for Review in both instances aforementioned (Annex A, p. 14, *ibid*), by stating that:

> "The notices of appeal, however, were not only affixed with the required customs stamp, nor the appeal fee caused to be paid as required by Section 3301 of the Tariff and Customs Code and Customs Administrative Order No. 226."

The Commissioner of Customs cited the case of **Lipat vs. Commissioner of Customs,** CTA Case No. 1442, October 26, 1966 which states:

> "The stamp requirement is in the nature of a docket fee and failure to pay the docket fee for appeals on time is fatal."

A Motion for Reconsideration was filed but it was subsequently denied in the Order of the Commissioner, dated January 29, 1992 (Annex B, p. 15, *ibid*), stating that:

> "The reason advanced for claimant's failure to comply with the aforesaid requirement is the lack of information to that effect. It is basic, however, that ignorance of the law excuses no one from compliance therewith. Even so, it appears from the face of the notice of appeal for both cases that they were filed out of time as prescribed by Section 2313 of the Tariff and Customs."

Hence, this Petition for Review filed in this Court on May 23, 1991.

The present case brought before Us for decision has, at the outset, been marred by procedural infirmities which eventually prove fatal to the cause of the petitioner. And, regardless of the alleged merits of the case, as procedural rules was not duly complied with, the same cannot by itself resurrect what has been from the start already a dead case.

First, the petitioner failed to perfect its appeal from the order of the District Collector of Customs to the Commissioner of Customs within the reglementary period of fifteen (15) days after notification in writing by the Collector of his action or decision pursuant to Section 2313 of the Tariff and Customs Code which provides:

> "Section 2313. **Review by Commissioner**. 'The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, give written notice to the Collector and one copy furnished to the Commissioner of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as

may be necessary to give effect to his decision."

While it may be true that herein petitioner filed its notice of appeal within the fifteen (15) day reglementary period, such notice of appeal can only be considered a mere "scrap of paper" since it was not perfected for the failure of petitioner to affix to the notice of appeal the required customs stamp pursuant to Section 3301 of the Tariff and Customs Code, as amended. Such documentary customs 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. Commission of Customs, CTA Case No. 1442, Oct. 26, 1966). Again, ignorance of such requirement is not a defense.

The period of 15 days prescribed by law for an appeal in cases of forfeiture is not just a procedural matter which the courts may ignore. The provisions of the Customs Law, like those of the Internal Revenue Code, are not merely directory but mandatory. The period for an appeal is fixed by law at 15 days in order that penalties for violation of the laws or rules of importation should be decided promptly and expeditiously as delays therein may result in the clogging of customs warehouses with merchandise illegally imported. (See also TEJAM, Commentaries on the revised Tariff and Customs Code, Vol. 4, Ed., 1986, p. 2305.

Second, as if to extract more blood from what has been a procedurally anemic condition of the petitioner, its counsel filed this petition for review in this Court on May 23, 1991 supposedly as an appeal from the denial order of the Commissioner of Customs received on October 30, 1990 which is about seven (7) months long after the reglementary period of thirty (30) days has already lapsed. Even if We have to count the 30-day period from receipt of the denial by the Commissioner of Customs of the Motion for Reconsideration, allegedly received by petitioner on March 14, 1992, this instant Petition for Review legally filed on May 23, 1991 has already prescribed. Section 2402 of the Tariff and Customs Code and Section 11 of the Republic Act No. 1125 provide such reglementary period for appeal from the Commissioner of Customs to the Court of Tax Appeals which are quoted, thus:

> "SEC. 2402. <u>Review by Court of Tax Appeals</u>. - The party aggrieved by a ruling of the Commissioner in any matter brought before him upon protest or by his action or ruling in any case of seizure <u>may appeal to the Court of Tax Appeals,</u>

> in the manner and within the period prescribed by law and regulations.
>
> "Unless an appeal is made to the Court of Tax Appeals, in the manner and within the period prescribed by laws and regulations, the action or ruling of the Commissioner shall be final and conclusive." (Underscoring supplied)

and

> "SEC. 11. **Who may appeal; effect of appeal**. - Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, the Commissioner of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.
>
> "xxx xxx xxx."
> (Underscoring supplied)

Again, defense of ignorance on the procedural rules on the part of the counsel for petitioner will not hold water. Unfortunately, petitioner is bound by the fault of its counsel.

Without going through the merits or demerits of this case, the same is hereby **DISMISSED** for lack of jurisdiction. This Court cannot entertain a case which has been barred by prescription.

SO ORDERED.

Quezon City, Metro Manila, March 2, 1993.

RAMON O. DE VEYRA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

MANUEL K. GRUBA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members 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