REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNIMEX MICRO-ELECTRONICS Gmbh,
Petitioner,

- versus - C.T.A. CASE NO. 4317

COMMISSIONER OF CUSTOMS,
Respondent.
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RESOLUTION

This refers to the "Manifestation With Motion To Dismiss" filed by respondent on July 21, 1989 for lack of jurisdiction.

On the basis of the *expediente* and the records submitted to this Court in connection with the incident, it appears that on July 9, 1985 a shipment of one (1) 40' Container and 171 Cartoons of Computer Games and Accessories on board the vessel "EVER GOLDEN/UNI-PIONEER", Voyage No. 00121006, arrived at the Port of Manila under Bill of Lading Nos. HBGMNL 2132 and 0130, declared in the Inward Foreign Cargo Manifest as "One (1) Lot Industrial Machineries (Total 1,100 Cartoons)" consigned "To Order of Allied Banking Corporation Notify: Handyware Phils., Inc., 47-49 Malasimbo St., Masambong, Quezon City, M.M., Phils."

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On July 11, 1985, when said shipment was spot checked by agents of the CIID, it was found to contain "Unimex Brand duplicator for video games cartridges; and super charger system for Atari". Hence, said shipment was recommended for seizure on the ground of misdeclaration. Seizure proceedings was instituted and a Warrant of Seizure and Detention dated March 3, 1987 was issued under S.I. 87-138 with Handyware Phils., Inc. as consignee/claimant for violation of Section 2530 (f) and (1)-1-5 of the Tariff and Customs Code in relation to P.D. No. 519.

For failure of consignee/claimant to appear at the scheduled hearing on June 5, 1987 despite due notices, the then Guillermo O. Orbos, District Collector of Customs, issued an order of default and proceeded with the hearing *ex parte*, after which, in the absence of evidence controverting the violation imputed, the shipment in question was decreed forfeited in favor of the Government.

At this juncture, it may be stated that Handyware Phils., Inc. consignee/claimant did not interpose an appeal from the decision of the Collector of Customs to the Commissioner of Customs. However, on June 15, 1987, Unimex Micro Electronics filed a "Motion For Intervention/And To

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Lift Judgment By Default" as shipper and owner of the shipment in question. After due hearing, said motion was given due course by Buenaventura Maniego, Collector of Customs, Port of Manila, who in his Order dated December 15, 1987, set aside the judgment by default and allowed movant to intervene.

In an undated 1st Indorsement, Collector Maniego submitted to the Commissioner for clearance a proposed unsigned decision decreeing the lifting of the warrant of seizure and detention and the release of the shipment in question upon payment of duties, taxes and other charges due the Government.

The Commissioner of Customs, in a 2nd Indorsement dated March 18, 1988, denied the proposed decision and directed the Collector to proceed with the seizure proceedings and to decree the forfeiture of the shipment in question in favor of the Government to be disposed of as provided by law.

Upon motion of Intervenor, the case was reheard and Ricardo R. Ampil, District Collector of Customs in his 1st Indorsement dated April 29, 1988 sought clearance from the Commissioner of Customs for a proposed decision ordering the lifting of the

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warrant of seizure and detention and the release of the goods in question.

The Commissioner of Customs, in his 4th Indorsement dated June 28, 1988 again denied the proposed decision and reiterated his 2nd Indorsement dated March 18, 1988, and instructed the District Collector of Customs to effect forfeiture and disposal of the shipment in question.

Not satisfied with the action taken by the Commissioner of Customs, Intervenor filed a Memorandum seeking reconsideration of the denial of the proposed decision. Sometime in August, 1988, the Commissioner of Customs, in his 6th Indorsement, returned the entire records of S.I. No. 87-138 to the District Collector of Customs denying the motion for reconsideration and directed the disposition of the shipment in question in the manner provided by law.

It is the decision of the Commissioner of Customs dated June 28, 1988 which petitioner is appealing from.

The position of respondent in his manifestation with motion to dismiss and during the hearing on November 15, 1989 is premised on the theory that inasmuch as the decision of the Collector of Customs dated June 5, 1987 has not been elevated to the Commissioner of Customs on appeal, there could be no decision rendered thereon by respondent to warrant or to serve as basis for the petition for review with this Court.

We find this view well taken. Pursuant to the law and jurisprudence, the person aggrieved by the decision or ruling of the Collector of Customs in seizure case may appeal the same to the Commissioner of Customs within fifteen (15) days from notice thereof. The failure of petitioner to interpose a seasonable appeal renders the Collector's decision final and executory and therefore, beyond the jurisdiction of the Commissioner of Customs or of this Court to review, revise or modify.

As the law on the matter actually stands, the appeal made available to an importer or persons aggrieved by a decision or ruling of any collector of customs of the Philippines has two (2) phases: first, the one provided for in Section 2313 of the Tariff and Customs Code of the Philippines (Republic Act No. 1927, as amended), i.e., such party is given fifteen (15) days from receipt of

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the adverse ruling or decision of the Collector to give notice in writing to the latter signifying his desire to have the matter reviewed by the Commissioner of Customs, and second, if still dissatisfied, his appeal could be projected to the Court of Tax Appeals pursuant to Section 7 of Republic Act No. 1125 by filing with said tribunal a petition within thirty (30) days from receipt of notice of the decision or ruling sought to be reviewed. *(**Sampaguita Shoe & Slipper Factory vs. Commissioner of Customs, et al.,** 102 Phil. 850.)* And more, the period of fifteen (15) days in cases of forfeiture is not a matter of procedure which 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 fifteen (15) days in order that penalties for violation of the laws or rules on importation may be promptly enforced. Questions involving forfeiture should be decided promptly and expeditiously, as delays therein may result in the clogging of customs warehouses with merchandise illegally imported. It is beyond the power of the courts to extend the period for appeal. *(**Chan Kian vs. The Court of Tax Appeals and The Collector of Customs,** 105 Phil. 904.)*

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The argument of petitioner that its case has already been terminated and a decision was already reached and signed, is we believe, without merit. Suffice it to state that the right of any party who claims to have been prejudiced is granted by law and such right does not depend upon the correctness of the order appealed from. The action of the Commissioner of Customs cannot have the effect of waiving the provision of the law requiring that an appeal from the decision of the Collector of Customs on forfeiture must be filed within fifteen (15) days. *(Chan Kian vs. The Court of Tax Appeals, et al., id.)*

IN VIEW OF THE FOREGOING, we find respondent's "Manifestation With Motion To Dismiss" well founded and the same is hereby GRANTED. For lack of jurisdiction, the "Petition For Review" filed by petitioner on December 29, 1988, should be, as it is hereby dismissed, with costs against petitioner.

SO ORDERED.

Quezon City, Metro Manila, February 13, 1990.

Amante Filler

AMANTE FILLER
Presiding Judge

Alex Z. Reyes

ALEX Z. REYES
Associate Judge

(On Leave)
CONSTANTE C. ROAQUIN
Associate Judge

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