

**\*\*Title\*\*:** Commissioner of Customs vs. Court of Tax Appeals and Litonjua Shipping Company

**\*\*Facts\*\*:**

1. Iligan Bay Express Corporation, a private entity, constructed, improved, and maintained berthing facilities at Kiwalan, Iligan City.
2. Various foreign trade vessels operating in the Philippines, represented by Litonjua Shipping Company with Granexport Corporation as its sub-agent, used the said facilities on different dates.
3. The Collector of Customs assessed and collected berthing fees from these vessels. The fees paid under protest included:
  - June 7, 1973, MS "Chozan Maru" - P2,551.00 paid on April 17, 1973
  - April 27, 1973, MS "Samuel S" - P8,000.00 paid on May 9, 1973
  - May 27, 1973, MS "Ero" - P5,000.00 paid on June 4, 1973
  - June 2, 1973, MS "Messinia" - P5,000.00 paid on June 11, 1973
  - March 22-26, 1975, MS "Pavel Rybin" - P4,000.00 paid on April 3, 1975
  - April 26-May 3, 1975, MS "Caledonia" - P7,000.00 paid on May 7, 1975
  - May 25-June 3, 1975, MS "Leonidas" - P9,000.00 paid on June 7, 1975.
4. Litonjua Shipping Company filed claims with the Bureau of Customs to refund the berthing fees.
5. The Collector of Customs denied the protests. Appeals to the Commissioner of Customs affirming the denial prompted further appeal to the Court of Tax Appeals (C.T.A.).
6. The C.T.A. consolidated the cases and ruled in favor of Litonjua Shipping Company, ordering a refund of P40,551.00.
7. Aggrieved, the Commissioner of Customs petitioned the Supreme Court to review the CTA's decision.

**\*\*Issues\*\*:**

1. Whether vessels engaged in foreign trade, which berth at privately owned ports, are liable to the payment of berthing charges under Section 2901 of the Tariff and Customs Code as amended by Presidential Decree No. 34.
2. Whether the port of Kiwalan is a national port subjecting vessels to berthing fees.

**\*\*Court's Decision\*\*:**

1. **\*\*Section 2901 Interpretation\*\*:** The Supreme Court analyzed the amended Section 2901 of the Tariff and Customs Code. The amendment specifically inserted the term "national" before "port," clarifying the legislative intention to limit berthing charges to vessels docking

at national ports only. The Court emphasized the legislative intent shown through the amendment and rejected an automatic extension of berthing fees to privately owned ports.

2. **Status of Kiwalan Port**: Upon review of applicable laws and orders, particularly Executive Order No. 72, series of 1936, and subsequent Republic Acts, the Court found that Kiwalan was not classified as a national port. The classification was supported by multiple legal instruments, including Customs Memorandum Circular No. 33-73, which excluded Kiwalan from the list of national ports. Administratively, the port's inclusion within a national port's jurisdiction of collection did not alter its municipal/private classification.

3. **Effect of Luzon Stevedoring Case**: Citing the case law where it was ruled that ownership (public or private) doesn't affect the imposition of berthing charges, the Court noted that this case was decided under the old provision of Section 2901, which did not differentiate between national and municipal ports. The amendment by Presidential Decree No. 34, however, rendered that precedent inapplicable under the current statute.

4. **Application of Expressio Unius Est Exclusio Alterius**: The Court employed this statutory interpretation principle, emphasizing that the inclusion of "national" ports in the statute necessarily excluded "municipal" and private ports from the scope of berthing fees.

**Doctrine**:

- Berthing charges under Section 2901 of the Tariff and Customs Code, as amended by Presidential Decree No. 34, apply only to national ports.
- A port must be legislatively classified as "national" to impose government berthing fees.
- The amendment of statutory language (insertion of "national") signifies legislative intent to change the imposition's scope.

**Class Notes**:

- **Key Concepts**: National Port, Municipal Port, Berthing Charges, Legislative Intent, Statutory Interpretation.
- **Tariff and Customs Code Section 2901**: Amended by Presidential Decree No. 34 to include "national port."
- **Classification Criteria for Ports**: Maintenance funding, legislative vs. executive creation, fee collection authority.
- **Expressio Unius Est Exclusio Alterius**: A principle of statutory interpretation advocating that the explicit mention of one thing excludes others not mentioned.

**Historical Background**:

- **Executive Order No. 72, Series of 1936**: Initially classified national and municipal ports, fundamental in defining port responsibilities and facilitating port management.
- **Presidential Decree No. 34 (1972)**: Key law amending the Tariff and Customs Code, specifically reshaping Section 2901 to reflect financial and administrative responsibilities over ports in terms of berthing fee collections. This decree aligned with broader governmental efforts of reform during the Martial Law period in the Philippines to streamline and define public administration processes rigidly.