

## PHILIPPINES INTERNATIONAL SURETY CO., INC., PETITIONER, VS. THE COURT OF TAX APPEALS AND THE COMMISSIONER OF CUSTOMS, RESPONDENTS.

*G.R. No. L-22420. March 18, 1967*

Ponente: BENGZON, J.P., J.

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### BENGZON, J.P., J.:

On December 13, 1954 one package of fresh water pea-nuts and 23 packages of various merchandise arrived in the Port of Manila from Hongkong consigned to J.D. Salva. For lack of release certificate and import license re-quired by Central Bank Circulars 44 and 45, the Collec-tor of Customs of Manila instituted seizure proceedings against said goods. Later, however, the goods were released to the consignee after he posted Surety Bonds Nos. 174 and 175 of the Philippines International Surety Co., Inc.

In a decision dated April 20, 1955 the Collector of Customs of Manila declared the importation forfeited and ordered the payment of P4,733.00. J.D. Salva, claimant, appealed to the Commissioner of Customs who in turn affirmed the decision of the Collector. Said claimant did not appeal from the Commissioner's decision. The Philip-pines International Surety Co., Inc. moved for reconside-ration. The motion was denied and said surety appealed to the Court of Tax Appeals.

On a stipulation of facts, the Court of Tax Appeals rendered a decision dismissing the petition for review. Said court upheld the validity of Central Bank Circulars 44 and 45 and declared petitioner Philippines Internatio-nal Surety Co., Inc. without personality to appeal, it being merely a surety. A motion for reconsideration was denied, hence the instant appeal.

The decision under review herein is predicated upon two separate grounds, procedural and substantial. Regarding the procedural question of personality to appeal, the record shows that petitioner failed to appeal from the de-cision of the Collector of Customs to the Commissioner of Customs. And thus, assuming it had personality to appeal,[1] the same was lost.[2] Against this conclusion, however, pe-titioner lays stress on the alleged fact that it could not have appealed from the Collector's decision because it was not notified thereof.

The Commissioner of Customs, on the other hand, sta-ted in his answer filed in the Court of Tax Appeals that notice of the decision in question was in fact served on appellant on April 30, 1955.

We observe that in forwarding the Customs record in this case to the Commissioner of Customs, the chief of the law division of the Bureau of Customs listed the documents composing the record. Document No. 2 in said list is a letter dated April 23, 1955 addressed to Atty. C. Soriano, counsel for claimant; document No. 3 is a letter dated April 27, 1955 addressed to the Philippines International Surety Co., Inc.; and, document No. 4 is the decision of the Collector of Customs dated April 20, 1955. We presume the chef of the law division performed his duties regularly.[3] Said documents, therefore, must be deemed to have existed. Since documents Nos. 2 and 3, in point of time, come immediately after the decision of the Collector (do-cument No. 4), and since both are addressed to the parties affected, it is reasonable to consider that they were ac-tually transmittal letters of copies of the

decision.

Moreover, in its motion for reconsideration dated July 27, 1960 filed in the office of the Commissioner of Customs, appellant never mentioned that it was not furnished a copy of the decision of the Collector of Customs. Twice it made mention of the Collector's decision, yet it never intimated, even only as a reminder, lack of notice thereof. It was only in its petition for review filed in the Court of Tax Appeals that it first pleaded the alleged omission. This behavior of appellant does not reflect the natural reaction of a party left without notice of a decision adversely affecting him.

Appellant prays in its reply brief that this case be returned to the Court of Tax Appeals for hearing on the merits of its petition for review filed therein. The fact, however, is that the Court of Tax Appeals likewise fully considered said petition for review on the merits, upon submission by the parties of the case for decision on the merits.[4] Precisely its decision resolved the substantive question of the validity of Central Bank Circulars 44 and 45, sustaining them. And in a long line of decision, this Court has repeatedly upheld the validity and constitutionality of the same Central Bank Circulars 44 and 45.[5]

WHEREFORE, the decision appealed from is hereby affirmed. With costs against appellant.

**SO ORDERED.**

Concepcion, C.J., Reyes, Dizon, Regala, Makalintal, Zaldivar, Sanchez and Castro, JJ., concur.

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[1] *Philippines International Surety Co., Inc. v. Commissioner of Customs*, L-20980, Nov. 29, 1965.

[2] *Sampaguita Shoe and Slipper Factory v. Commissioner of Customs*, L-10285, Jan. 14, 1958; *Philippine International Surety Co., Inc. v. Commissioner of Customs*, L-18291, Jan. 31, 1964.

[3] Sec. 5(m), Rule 131, Rules of Court.

[4] Cf. CTA Minutes for March 30, 1963, p. 40, CTA record.

[5] *Commissioner of Customs v. Serree Investment Co.*, L-12007, May 16, 1960; *Po Eng Trading v. Commissioner of Customs*, L-10508, Nov. 29, 1960; *Commissioner of Customs v. Eastern Sea Trading*, L-14279, Oct. 31, 1961; *Commissioner of Customs v. Santos*, L-11911, March 30, 1962; *Commissioner of Customs v. Nepomuceno*, L-11126, March 31, 1962; *Pascual v. Commissioner of Customs*, L-12219, April 25, 1962; *Serree Investment Co. v. Commissioner of Customs*, L-19564, Nov. 28, 1964; *Bombay Department Store v. Commissioner of Customs*, L-20460, Sept. 30, 1965; *Serree Investment Co. v. Commissioner of Customs*, L-21217, Nov. 29, 1965; *Lazaro v. Commissioner of Customs*, L-21790 & L-21794, Dec. 24, 1965.

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