

AUYONG HIAN (HONG WHUA HANG), PETITIONER AND APPELLANT, VS. THE HONORABLE COURT OF TAX APPEALS, AL., RESPONDENTS AND APPELLEES.

G. R. No. L-25181. April 11, 1967

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is a petition for review of the resolutions of the respondent Court of Tax Appeals in CTA Case No. 1560 dismissing the appeal interposed by petitioner Auyong Hian (Hong Whua Hang) from the decision of the Commissioner of Customs, dated December 7, 1964, which affirmed the decision of the Collector of Customs of the Part of Manila, dated April 23, 1963, in Seizure Identification No. 6669 declaring forfeited in favor of the government 600 hogsheads of Virginia leaf tobacco that had been imported by Auyong Hian and ordering the sale of the said tobacco.

The facts pertinent to this case, as shown in the record, be briefly stated as follows: Petitioner Auyong Hian applied with the Import Control Commission, and was granted, four (4) no-dollar remittance licenses to import Virginia leaf tobacco with an aggregate value of two million dollars. He filed his application on June 29, 1953 and was advised of the approval of his application the following day, June 30, 1953—the day the Import Control Law (Republic Act 650) expired. While negotiations for the importation of Virginia leaf tobacco pursuant to said licenses were undertaken by the licensee, it was not until December 30, 1961, that 600 hogheads of Virginia leaf tobacco arrived in the Philippines aboard the "SS Fernstate". The Collector of Customs of Manila refused to release the said shipment of Virginia leaf tobacco to petitioner, apparently in view of his doubt as to the legality of the importation. For this reason, petitioner instituted an action for mandamus in the Court of First Instance of Manila, in Civil Case No. 49639, to compel the, respondents Collector of Customs and Commissioner of Customs to release and deliver to petitioner the tobacco in question. On March 19, 1962, judge Manuel Barcelona of the Court of First Instance of Manila issued an order directing the Collector of Customs and the Commissioner of Customs to release the tobacco to the petitioner upon the latter's filing a bond of P300,000.00. The Commissioner of Customs and the Collector of Customs filed a petition for certiorari in the Supreme Court questioning the jurisdiction of the Court of First Instance of Manila to order the release of the tobacco shipment and praying for the annulment of the order of said court directing the release of the, tobacco. This proceeding was before this Court in G. R. No. L-19597, entitled "Cesar CHmaco, et al. vs. Manuel Barcelona, et al." On July 31, 1962, this Court, through Mr. Justice Labrador, ruled that the Court of First Instance of Manila had no jurisdiction to issue the order directing the Commissioner of Customs and the Collector of Customs to release the 600 hogsheads of Virginia leaf tobacco in question to the petitioner, and incidentally declared that the importation of the tobacco was illegal upon the ground that the importation was made long after the Import Control Law had expired and that the importation was in contravention of the policy of the government as declared in Republic Acts Nos. 698 and 1194, notwithstanding the alleged approval of said importation by the President of the Philippines.

On November 8, 1962, the Collector of Customs instituted seizure proceedings, Seizure Identification No. 6669,

against the 600 hogsheads of Virginia leaf tobacco consigned to the petitioner. On April 23, 1963, the Collector of Customs rendered his decision declaring said 600 hogsheads of tobacco forfeited to the government and ordered the sale thereof at public auction. The sale at public auction was set for June 10, 1963. The petitioner received a copy of said decision on May 7, 1963, and on May 21, 1963, the petitioner filed with the Collector of Customs his notice of appeal, in due form, from the above-mentioned decision of the Collector of Customs.

In the meantime certain incidents which have relevance to the case now before Us had taken place.

On May 4, 1963, Tomas Cloma filed an action against Auyong Hian in the Court of First Instance of Manila (Civil Case No. 53874) seeking the collection of a sum of money representing fees for alleged professional services rendered. Cloma applied for a writ of attachment, which was granted by Judge Francisco Area on May 13, 1963, and the 600 hogsheads of Virginia leaf tobacco which were then in the possession of the Collector of Customs were attached upon. Cloma's filing a bond of P20,000.00. The Collector of Customs filed a third-party claim upon the ground that the tobacco had been declared forfeited to the government and the same was in custodia legis and could not be subject to attachment. Cloma moved to dismiss the third-party claim and asked for a restraining order or a "writ of preliminary injunction ex parte to prevent the Collector of Customs from selling the 600 hogsheads of tobacco in question. On June 5, 1963, Judge Area issued an order restraining the Collector of Customs from enforcing his decision in Seizure Identification No. 6669 and ordering him to desist from proceeding with the sale at public auction of the subject tobacco which was set for June 10, 1963. On June 6, 1963, Judge Area denied the motion of the Collector of Customs to reconsider the order of June 5, and on June 7 said Judge actually issued a writ of preliminary injunction embodying exactly the same provision as the restraining order issued two days previous. Thereupon the Collector of Customs filed a petition for certiorari and prohibition with preliminary injunction before this Court against Judge Francisco Area and Tomas Cloma, questioning the jurisdiction of respondent Judge Area in ordering the attachment and in issuing the writ of preliminary injunction in Civil Case No. 53874 in the Court of First Instance of Manila, hereinabove adverted to. That proceeding was before this Court in G. R. No. L-21839 entitled "Collector of Customs, et al. vs. Hon Francisco Area, et al." This Court issued a writ of preliminary injunction restraining Judge Francisco Area from enforcing the writ of preliminary injunction issued by him against the Collector of Customs in Civil Case No. 53874 in the Court of First Instance of Manila and from giving effect to the order of attachment and other pertinent orders issued in said case.

Auyong Hian filed a motion before this Court to intervene in that case of "Collector of Customs vs. Area," supra, and at the same time asked that pending decision of the case a writ of preliminary injunction be issued restraining the Collector of Customs or his agents from seizing and selling the 600 hogsheads of tobacco in question and from enforcing his decision of April 23, 1963 which was then pending review before the Commissioner of Customs. On June 25, 1963, this Court granted the motion of Auyong Hian to intervene. On June 26, 1963, this Court issued a , temporary restraining order against the Collector of Customs enjoining him from selling the 600 hogsheads of tobacco. On July 3, 1963, after hearing the oral argument of the parties concerned and upon Auyong Hian's filing a bond of P50,000.00, this Court issued a preliminary injunction against the Collector of Customs restraining said officials "from seizing and selling the 600 hogsheads of imported Virginia tobacco of intervenor (Auyong Hian) and from enforcing the decision of Seizure Identification No. 6669 of the Bureau of Customs, dated April 23, 1963,"[1]

It appears, however, that on June 10, 1963 the Collector of Customs accepted the deposit of the Consolidated Tobacco Industries of the Philippines, hereinafter referred to as CTIP, of P1,000,000.00 as a partial payment of the 600 hogsheads of Virginia tobacco; and on June 27, 1963 said CTIP paid the sum of P500,000.00 as the balance of the alleged purchase price of the said tobacco. The CTIP, upon its petition, was allowed by this Court

to intervene in the case of "Collector of Customs vs. Arca," supra.

On July 17, 1964, this Court rendered its decision in the case of "Collector of Customs, et al. vs. Judge Francisco Area, et al.," supra, holding that respondent Judge Francisco Area has no jurisdiction over the 600 hogsheads of Virginia leaf tobacco involved in Seizure Identification No. 6669 and to pass upon the validity of the actuations of the Collector of Customs, and this Court set aside the orders of June 5, and June 6, 1963 and the writ of preliminary injunction of June 7, 1963, issued by said respondent judge. Incidentally this Court, also through Mr. Justice Labrador who penned the decision in the case of "Climaco vs. Barcelona", supra, reiterated the ruling held in the latter case that the importation of the 600 hogsheads of Virginia leaf tobacco was illegal. Being cognizant, however, that when the decision in the Area case was rendered the decision of the Collector of Customs of April 23, 1963 in Seizure Identification No. 6669 was pending appeal before the Commissioner of Customs, this Court did not dissolve the writ of preliminary injunction which was issued on July 3, 1963 against the Collector of Customs restraining said official from proceeding "with the sale of the tobacco in question to the CTIP.

On December 7, 1964, the Commissioner of Customs rendered his decision on the appeal taken by Auyong Hian from the decision of the Collector of Customs of April 23, 1963, affirming said decision of the Collector of Customs. On December 9, 1964, Auyong Hian filed with the Commissioner of Customs his notice of appeal to the Court of Tax Appeals from the decision of the Commissioner of Customs.

On January 8, 1965, herein petitioner filed before the Court of Tax Appeals a petition for review by way of appeal from the decision of the Commissioner of Customs, above-stated. Summons were served upon respondents, requiring them to file their answer. After having been granted various extensions until February 12, 1965 within which to file their answer, the Solicitor General, on February 4, 1965, in behalf of respondents Collector of Customs and Commissioner of Customs, filed a motion to dismiss principally upon the ground that the subject matter and issues raised in the petition for review have already been passed upon by the Supreme Court in its decisions in G.R. No. L-19597, entitled "Cesar Climaco, et al. vs. Honorable Judge Manuel P. Barcelona and Auyong Hian", promulgated on July 31, 1962, and in G. R. No. L-21389, entitled "Collector of Customs vs. Hon. Francisco Area and Tomas Cloma, et al.," promulgated on July 17, 1964, and "the said decisions are res judicata so as to control definitely the disposition of the instant case", [2] and that the petitioner has no cause of action. On February 24, 1965, petitioner (appellant) filed a "petition to strike out respondents' motion to dismiss and to declare them in default," upon the ground that the motion to dismiss is not in accord with respondents' own request to be granted extension of time to file an answer and the order of the court granting said request and, therefore, said motion to dismiss did not stop the running of the period within which to answer.

The CTIP filed a petition to intervene and at the same time sought admission of its answer in intervention, but on May 29, 1965 said CTIP withdrew its motion for leave to intervene as well as its answer in intervention, both dated January 27, 1965.

On May 18, 1965, respondent Collector of Customs of Manila ordered the release to the CTIP of the 600 hogsheads of tobacco in question, without authority from the Commissioner of Customs. Believing that the release was ordered without authority, on May 28, 1965 the Solicitor General, in behalf of the Commissioner of Customs and the Collector of Customs, filed with the Court of Tax Appeals a motion praying that the CTIP be ordered to return the tobacco to the Bureau of Customs. A motion praying for the same order prayed for by the Solicitor General in his motion of May 28, 1965 was filed by petitioner Auyong Hian on May 27, 1965.

On June 22, 1965, the Court of Tax Appeals promulgated a resolution dismissing "the petition of Auyong Hian for review of the decisions of the Commissioner of Customs and the Collector of Customs upon the ground that "it is plain that this Court has no jurisdiction to entertain the instant appeal" because the Supreme Court in the two

cases of "Climaco vs. Barcelona" supra and "Collector of Customs vs. Area", supra, had already held that the importation of the tobacco in question is illegal and "that this Court cannot review, revise, much less overrule the decision of the Supreme Court." [3] The Court of Tax Appeals, in the same resolution, further stated that having found that it had no jurisdiction to entertain the appeal it deemed it unnecessary to consider the other issues raised by the petitioner and it refused to entertain the motion of the Solicitor General for the issuance of an order for the return of the tobacco to the Bureau of Customs which was released by the Collector of Customs to the CTIP. In this connection, the record shows that on July 12, 1965, this Court, in G. R. No. L-24704, entitled "Auyong Hian vs. Judge Gaudencio Cloribel, et al.," issued a writ of preliminary injunction enjoining Judge Cloribel of the Court of First Instance of Manila, the CTIP, the Consolidated Terminals Inc., the Collector of Customs and the Commissioner of Customs from disposing or in any manner interfering with the tobacco in question; and that injunction is still in full force and effect.

On June 26, 1965, petitioner Auyong Hian filed a motion for reconsideration of the resolution of June 22, 1965, and for a new trial, and on July 7, 1965, he further filed a supplemental motion for reconsideration and new trial. The supplemental motion pointed out that by filing the motion of May 28, 1965, praying the Court of Tax Appeals to order the CTIP to return the tobacco in question to the Bureau of Customs, the Solicitor General, in behalf of the Commissioner of Customs and the Collector of Customs, had thereby waived their stand that the Court of Tax Appeals had no jurisdiction to entertain the appeal from the decisions of the Commissioner of Customs and the Collector of Customs. Both the original and supplemental motions for reconsideration and new trial, however, were denied by the Court of Tax Appeals in a resolution dated August 31, 1965. Petitioner filed a second motion for reconsideration and new trial, but said second motion was again denied by the Court of Tax Appeals in a resolution dated September 18, 1965. From these resolutions of the Court of Tax Appeals—of June 22, 1965 dismissing the petition for review, and of August 31, 1965 and September 12, 1965 denying the motions for reconsideration and new trial—petitioner Auyong Hian appealed to this Court.

Respondents filed their answer, in the instant case, on November, 5, 1965, denying certain allegations in the petition for review and alleging affirmative defenses, the principal defense being that the petition for review is barred by res judicata and the Court of Tax Appeals has no jurisdiction to entertain the petition, and praying that the petition be dismissed.

The principal question that this Court has to resolve in the instant case is whether or not the Court of Tax

Appeals has correctly held that it has no jurisdiction to entertain the appeal interposed by petitioner Auyong Hian from the decision of the Commissioner of Customs, which affirmed the decision of the Collector of Customs in Seizure Identification No. 6669.

The "jurisdiction" of a court refers to the power of a court to hear and determine a case. To ascertain whether a court has jurisdiction or not the provisions of the law should be inquired into. The law pertinent to the resolution of the question before Us is found in the provisions of Sections 2313 and 2402 of the Tariff and Customs Code of the Philippines (Republic Act 1937) and in Section 7 of Republic Act No. 1125, as follows:

"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 days after notification in writing by the Collector of his action or decision, give written notice to the Collector 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." (Republic Act 1937)

"Section 2402. Review by Court of Tax Appeals.—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 may appeal to the Court of Tax Appeals, 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." (Republic Act 1937)

"Sec. 7. Jurisdiction.—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

* * * * *

"(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected, fines, forfeiture or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered' by the Bureau of Customs;" (Republic Act 1125; italics supplied)

The record shows that petitioner Auyong Hian has properly brought this case on appeal to the Court of Tax Appeals in accordance with the above-quoted provisions of law. The subject matter of the appeal is perfectly within the power of the Court of Tax Appeals to hear and decide.

In the case of "Government of the Philippine Islands, et at. vs. Gale, et al.," 24 Phil., 95, this Court declared that

"The Collector of Customs when sitting in forfeiture proceedings, as provided in Act 355 (now Republic Act 1937—the Tariff and Customs Code), constitute a tribunal upon which the law expressly confers jurisdiction to hear and determine all questions touching the forfeiture and further disposition of the subject matter of such proceedings * * *." (Italics supplied)

And so, in the instant case, the Collector of Customs of the Port of Manila, in Seizure Identification No. 6669, constituted itself as a tribunal to hear and determine the questions touching the forfeiture and disposition of the 600 hogsheads of Virginia leaf tobacco that was imported by Auyong Hian- The Collector of Customs rendered a decision declaring the tobacco forfeited in favor of the government and ordering its sale at public auction, and Auyong Hian timely appealed from that decision to the Commissioner of Customs. By this appeal Auyong Hian had thereby questioned not only the seizure and forfeiture of the tobacco but also the order to sell the tobacco; and any sale made or conducted pursuant to said appealed decision was necessarily covered by the appeal to the Commissioner of Customs. The Commissioner of Customs affirmed the decision of the Collector of Customs in ordering the forfeiture of the tobacco, but the decision of the Commissioner was silent regarding the portion of the decision of the Collector of Customs ordering the sale. The Commissioner of Customs, in his affirmatory decision, simply limited himself to declaring that the seizure of the 600 hogsheads of tobacco and their forfeiture in favor of the government was in order because of the decisions rendered by the Supreme Court in the cases of "Climaco vs. Barcelona" and "Collector of Customs vs. Area", supra, which held that the importation of those 600' hogsheads of tobacco was illegal. The decision of the Commissioner of Customs did not touch on the other questions raised by petitioner Auyong Hian in his appeal.

In the petition for review that he filed with the Court of Tax Appeals, Auyong Hian challenged the decision of the Commissioner of Customs on the following grounds:

- (1) "That the decision is not supported by any evidence appearing in the record;
- (2) "That the holding that the importation is illegal is ambiguous because Section 2307 of the Tariff and Customs Code recognizes two (2) kinds of illegality which the decision does not distinguish;
- (3) "That the decision is contrary to law and establish precedents;

(4) "That the decision has failed and ignored the various questions raised by herein petitioner in his appeal and in his memoranda without cogent reasons;

(5) "That the decision has ignored fairness and equity;

(6) "That the reliance placed by the respondents upon the decisions of the Supreme Court in the two cases, *Climaco, et al. vs. Judge Barcelona, et al.*, G.R. No., L-19597 and *Collector of Customs vs. Judge Area, et al.*, G. R. No. L-21389, is misplaced, the reference to illegality therein being mere obiter dictum and beyond the jurisdiction of the Supreme Court, the primary, exclusive and original jurisdiction to determine the illegality of importation being vested by law upon the Collector of Customs and the Commissioner of Customs; and

(7) "Both respondent Collector of Customs and Commissioner of Customs have disregarded without cogent reasons the findings of facts and the recommendation of former Acting Customs Collector Teotimo Eoja and Assistant Commissioner for Operations Juan Celeste, recommending the release of the aforesaid tobacco to herein petitioner."

In amplification of the grounds alleged in the petition for review the petitioner stated, among others, that an examination of the decisions of both the Collector of Customs and the Commissioner of Customs together with the transcript of records and exhibits disclosed that those two decisions are not supported by evidence; and that by simply declaring the importation illegal the two decisions did not actually clarify under what category of illegal importation the subject tobacco falls, because Section 2307 of the Tariff and Customs Code recognizes two kinds of illegal importation with different consequences on the rights of the importer, to wit: "relatively prohibited which permits redemption, and absolutely prohibited (like opium and gambling devices, etc.) which does not permit of redemption." [4] The petitioner claims, in his petition for review, that the worst that can happen is that the tobacco importation be declared relatively prohibited inasmuch as it was imported by the authority of the President of the Philippines, backed up by the legal opinions of the Secretary of Justice and the Chief Law Officer of Malacanang. The petitioner also claims that the issue presented in the appeal is not alone the legality or the illegality of the importation, but that the appeal had raised questions that go into the substance of due process and deprivation of one's property without a day in court. The petitioner further claims that "the act of seizure and the scheduled auction sale of petitioner's tobacco on June 10i, 1963, which was frustrated by the interposition first of the preliminary injunction of Judge Area and finally by that of the Supreme Court in *Collector of Customs vs. Judge Area, et al.*, G.R. No. L-21389, were all) illegal, arbitrary and with grave abuse of power", and "the decision appealed from of respondent Commissioner of Customs affirmed all these illegalities * * *". [5]

We find that the petition for review filed by Auyong Hian before the Court of Tax Appeals has really raised a number of issues which call for a ruling or resolution by the Court of Tax Appeals, and it is within the jurisdiction of the Court of Tax Appeals to rule on, or resolve, those issues. Among the matters that were questioned by Auyong Hian in his appeal was the legality and propriety of the order to sell at public auction, as embodied in the decision of the Collector of Customs which was affirmed by the Commissioner of Customs; and, more so, because during the pendency of the appeal before the Court of Tax Appeals it was brought to the attention of said court, by Auyong Hian as well as by the Solicitor General, that the Collector of Customs (Pedro Pads) had released the 600 hogsheads of tobacco in question to the CTIP which claimed to have purchased said Tobacco at public auction sale—which sale is precisely questioned by Auyong Hian in his appeal. [6]

The Court of Tax Appeals declared itself without jurisdiction to entertain the appeal of Auyong Hian upon the ground that the Supreme Court had already ruled that the importation of the 600 hogsheads of tobacco was illegal, and that it cannot review, revise, much less overrule the decision of the Supreme Court. We believe that the stand taken by the Court of Tax Appeals is not correct. It appears to Us that the Court of Tax Appeals had overlooked the fact that the appeal of Auyong Hian from the decision of the Commissioner of Customs had raised not only

the question of the legality of the importation but also other matters which called for a ruling by the Court of Tax Appeals in the exercise of its appellate jurisdiction—especially the question of whether the tobacco thus imported were goods the importation of which was relatively prohibited or absolutely prohibited, and also the question regarding the disposal of the tobacco that was thus seized. The declaration by this Court, in the Barcelona and Area cases, *supra*, that the importation of the tobacco in question was illegal was not intended to stop the course of the administrative proceedings in relation to the importation of said tobacco. Let it be noted that when the Barcelona case was decided on July 31, 1962 the seizure proceedings against the 600 hogsheads of tobacco in question had not yet been instituted by the Collector of Customs. It was not until November 8, 1962 when Seizure Identification No. 6669 was instituted. In the Barcelona case the question that was before this Court was one regarding jurisdiction—that is, whether Judge Barcelona of the Court of First Instance of Manila had jurisdiction to order the Collector of Customs and the Commissioner of Customs to release to Auyong Hian the said 600 hogsheads of tobacco. Because in his order of release Judge Barcelona mentioned, among others, that Auyong Hian imported said tobacco pursuant to valid licenses, this Court, on the basis of the pleadings and the record of that case, rendered a ruling that the licenses were invalid and so the importation of the tobacco was illegal.

In the case of Collector of Customs vs. Area, *supra*, this Court reiterated the ruling in the Barcelona case that the importation of said tobacco was illegal. The issue before this Court in the Area case was, as in the Barcelona case, regarding jurisdiction—that is, whether Judge Area of the Court of First Instance of Manila had jurisdiction to order the attachment of the 600 hogsheads of tobacco which was then under the custody of the Bureau of Customs and which was the subject of seizure proceedings and whether said judge can enjoin the Collector of Customs and the Commissioner of Customs from selling the said tobacco at public auction. This Court declared Judge Area without jurisdiction over the shipment involved in Seizure Identification No. 6669 and to pass upon the validity of the actuations of the Collector of Customs.

This Court allowed Auyong Hian to intervene in the Area case, and because he alleged that as the importer of the tobacco in question he had made a timely appeal to the Commissioner of Customs from the decision of the Collector of Customs in the seizure proceedings, this Court gave him a chance to prosecute his appeal, first before the Commissioner of Customs, and later before the Court of Tax Appeals. In the meantime, this Court issued a writ of preliminary injunction enjoining the Collector of Customs and the Commissioner of Customs from seizing and selling the 600 hogsheads of tobacco in question.

Thus, in spite of the fact that this Court had declared that the tobacco in question was illegally imported, it at the same time took cognizance of the administrative proceedings that were going on in connection with that importation, and this Court recognized the jurisdiction of the Commissioner of Customs and the Court of Tax Appeals in connection with those administrative proceedings. In the very decision, and resolutions, in the case of Collector of Customs vs. Area, *supra*, this Court has clearly recognized the jurisdiction of the Commissioner of Customs and the Court of Tax Appeals, as the case may be

to act on the appeal properly brought before him/it, in relation to the administrative proceedings in connection with the importation. Thus, in the decision, we read, as follows:

"Auyong filed a petition for leave to intervene (granted June 25, 1963) and later, an urgent motion *ex parte* praying this Court that, pending decision of herein petition, a writ of preliminary injunction be issued restraining the Collector of Customs or his agents from seizing and selling the 600 hogsheads of tobacco in question and enforcing his decision on April 23, 1963 which was pending review by the Commissioner of Customs. Basis of intervenor's motion *ex parte* is the claim that enforcement of said decision would cause great injustice and damage to him and render any favorable decision by the Commissioner of Customs on his appeal ineffectual and without any further benefit to him. Finding from the verified answer of the intervenor to the present -petition that the order of the Collector of Customs in the seizure proceedings covering the tobacco in

question had been timely appealed to the Commissioner of Customs, before whom the administrative proceedings is still pending. We issued on June 26, 1963 a restraining order, upon intervenor's filing a bond in the amount of P20,000, directing the Collector of Customs to desist temporarily from continuing with the public auction of the tobacco, until July 3, 1963, and ordering the said Collector to show cause why a preliminary writ of injunction should not issue. After due hearing, this Court resolved to grant intervenor Auyong Hian's petition upon his filing a bond of P50,000.00 without prejudice to petitioner's filing within five days from the court's resolution an opposition on the merits to the petition of intervenor; and likewise allowing the Consolidated Tobacco Industries of the Philippines, Inc. to file a petition for intervention,, which it did on July 9, 1963.

* * * * *

"This Court, having found that intervenor Auyong Hian had made a timely appeal from the decision of the Collector of Customs of April 23, 1963 to the Commissioner of Customs before whom the appeal is still pending action (see Resolution of June 26, 1963), will refrain from passing upon the validity of the administrative proceedings therein questioned and will instead proceed to determine the respective rights of the parties to the present action.

* * * * *

"Auyong Hian, therefore, had lost all his rights to the shipment, not only because We declared the licenses void and the shipment illegal in the case of Climaco vs. Barcelona, G. K. No. L-19597, but also because the seizure proceedings have been found to be regular and had deprived Auyong Hian of his rights to the shipment as importer; at least while the order of seizure has not been set aside.

* * * * *

"In view of the foregoing, the petition for certiorari and injunction is granted, and the orders of respondent Judge of first instance dated June 5 and 6, and the writ of preliminary injunction dated June 7, 1963 and other pertinent orders issued by him, are set aside, and respondent judge is hereby declared without jurisdiction over the shipment involved in Manila Seizure Identification No. 66G9 and to pass upon the validity of the actuations of petitioner Collector of Customs. Pending action by the Commissioner of Customs on the appeal taken by Auyong Hian from the April 23, 1963 decision of the Collector of Customs in the above)-men-tioned seizure proceedings, the writ of preliminary injunction issued by this Court against said Collector restraining him from proceeding with the sale of the subject tobacco to intervenor Consolidated Tobacco Industries of the Philippines, Inc. shall continue to remain in full force and effect." (Italics supplied)

On January 7, 1965, this Court, in the Area case, issued the following resolution:

"Considering the petition filed by intervenor Consolidated Tobacco Industries of the Philippines, Inc. dated January 2, 1965 in L-21389 (Collector of Customs for the Port of Manila vs. Hon. Francisco Area, etc., et al.) praying for the lifting of the writ of preliminary injunction issued by this Court under date of June 26, 1963 restraining the Collector of Customs from proceeding with the sale to said intervenor of the tobacco which is the subject of this litigation, and the manifestation of the intervenor Auyong Hian dated January 5, 1965 opposing said petition for the lifting of the preliminary injunction in question, it appearing that the intervenor Auyong Hian had filed an appeal on December 9, 1961, from the decision of the Commissioner of Customs which affirmed the decision of the Collector of Customs ordering the seizure of subject tobacco, THE COURT HEREBY DENIES the said petition of intervenor Consolidated Tobacco Industries of the Philippines, Inc. (Italics supplied)

On January 19, 1965, also in the Area case, this Court issued the following resolution:

"It appearing after the oral argument in L-21389 (Collector of Customs, etc. vs. Hon. Francisco Area, et al.) that Judge Gaudencio Cloribel has suspended his order complained of; that there is no reason to believe he

would revive it in view of the disclosure already made; that apparently the order of the Commissioner of Customs has not yet become final and the Court of Tax Appeals has already acquired exclusive jurisdiction over the subject-matter, pursuant to the appeal made by Auyong Hian; RESOLVED, that this incident be considered closed. And the petition of intervenor Consolidated Tobacco Industries, Inc. to reconsider our order of January 7, 1965 is DENIED. (*Italics supplied*)

On April 8, 1965, this Court also issued the following resolution in the Area case:

"In case L-21389 (The Collector of Customs, etc. vs. Hon. Francisco Area, etc., et al.), considering the motion of the intervenor Consolidated Tobacco Industries of the Philippines, Inc., dated March 31, 1965 praying that the preliminary injunction issued by this Honorable Court restraining the Collector of Customs from proceeding with the sale of the tobacco, subject-matter of the litigation, to said intervenor, and the opposition filed against said motion by intervenor Auyong Hian (Hong Whua Hang), it appearing that on January 19, 1965 this Court declared that the Court of Tax Appeals had already acquired exclusive jurisdiction over the subject-matter of this case pursuant to the appeal made by Auyong Hian from, the decision of the Commissioner of Customs and had resolved that the incident regarding the controversy over the said tobacco was considered closed: This Court RESOLVED, that the writ of preliminary injunction issued by it be considered dissolved and of no further effect. The petition of the intervenor Consolidated Tobacco Industries of the Philippines, Inc. of March 31, 1965, is denied without prejudice to taking up the matter with the Court of Tax Appeals." (*Italics supplied*).

It will thus be seen, from the above-quoted resolutions issued in connection with incidents brought up after the decision had been rendered in the Area case, that in spite of the fact that this Court had declared the importation of the 600 hogsheads of tobacco in question illegal, it categorically declared that the Court of Tax Appeals has the exclusive jurisdiction over the subject matter (the tobacco) pursuant to the appeal made by Auyong Hian from the decision of the Commissioner of Customs. What are declared in these resolutions are but reaffirmations of what was stated in the decision that because of

the timely appeal made by Auyong Hian, this Court would refrain from passing upon the validity of the administrative proceedings. This Court recognizes the exclusive jurisdiction of the Court of Tax Appeals over appeals in administrative proceedings in connection with importations. Indeed, the proceedings before the Collector of Customs, the appeal before the Commissioner of Customs, and the appeal before the Court of Tax Appeals deal with the administrative aspects of importation. While the Court of Tax Appeals is considered as a judicial body, its functions are to pass upon administrative decisions of the Commissioner of Customs, the Commissioner of Internal Revenue and the provincial or city Boards of Assessment Appeals.

This Court declared in its decision, in the Area case, that Auyong Hian would lose all rights over the tobacco in question "at least Awhile the order of seizure has not been set aside." This Court has thus made it understood that the seizure proceedings were not yet closed, and there was no final decision yet on the matter. When this Court said that it "will refrain from passing upon the administrative proceedings therein questioned" (in the appeal before the Commissioner of Customs) ; and "that apparently the order of the Commissioner of Customs has not yet become final and the Court of Tax Appeals has already acquired exclusive jurisdiction over the subject matter pursuant to the appeal made by Auyong Hian", what was meant was that the Court of Tax Appeals is the body that should decide those matters which this Court had refrained from deciding.

The case as brought by Auyong Hian to the Court of Tax Appeals involves questions relating to the seizure, forfeiture and the disposition of the 600 hogsheads of tobacco in question. As has been adverted to, the matter regarding the sale of the tobacco was included in the appeal of Auyong Hian from the decision of the Commissioner of Customs. The act of selling the seized tobacco as well as the seizure thereof are matters that are governed by the Tariff and Customs Code, the enforcement of which law is under the administration of the

Bureau of Customs. Hence the Court of Tax Appeals has jurisdiction over appeals from the

decisions of the Commissioner of Customs in connection with the enforcement of the Tariff and Customs Code. We find, therefore, that in spite of the ruling laid down in the Barcelona and Area cases that the importation of the 600 hogsheads of the tobacco in question was illegal the Court of Tax Appeals is not precluded from entertaining the appeal filed by Auyong Hian from the decision of the Commissioner of Customs, said appeal having raised issues that require resolution or ruling by the Court of Tax Appeals, and they are issues which could not have been decided by this Court in these two cases. We hold that the Court of Tax Appeals has jurisdiction to entertain the aforesaid appeal by Auyong Hian, and it should proceed to determine and decide said appeal.

In view of the foregoing, the resolutions of June 22, 1965, August 31, 1965 and September 18, 1965, in CTA Case No. 1560, appealed from, are set aside; and this case is remanded to the Court of Tax Appeals for further proceedings and decision. No costs. It is so ordered.

Conception, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., and Sanchez, JJ., concur.

Resolutions set aside.

[1] Words in quotation marks are 'as copied from the writ of preliminary injunction of July 3, 1963 in G. E. No. L-21389, "Collector of Customs vs. Area."

[2] As quoted from the Motion to Dismiss in CTA Case No. 1560.

[3] Words in quotation marks are as quoted from the resolution appealed from.

[4] Words in quotation marks are as quoted from the petition for review filed with the Court of Tax Appeals in CTA Case No. 1560.

[5] Words in quotation marks are as quoted in petition for review.

[6] The record shows that the auction sale set by the Collector of Customs for June 10, 1963 was deferred, and it is not shown that any auction sale was actually conducted on any other day later. See (1) Letter of Collector Pads to Dr. Timoteo Sevilla of the Philippine Associated Resources, dated June 7, 1963—page 285, record; (2) Letter of Collector Pacis to the Secretary of Finance, dated June 11, 1963—page 190, record; (3) First Indorsement dated June 18, 1963 of Deputy Commissioner of Customs Pablo Mariano to Collector Pacis—page 284, record; (4) Letter of Collector Pacis to the Philippine Associated Resources, dated July 1, 1963—page 286, record; and (5) Order of Commissioner of Customs de Joya dated December 7, 1964 in Customs Case No. 669—page 298, record.

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