

LITTON & CO., INC., PETITIONER, VS. THE COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. L-22516. August 17, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Litton & Co., Inc. applied with the Central Bank to import 18 bales of "cotton textile woven with dyed yarn" classified under Commodity Category NEP and Code No. 650206. The application was approved and the corresponding release certificate was issued by the Central Bank.

In August 1956 the shipment applied for arrived in the port of Manila on board SS "Koten Maru". Upon examination by the Bureau of Customs, it was however found to consist of 18 bales of "handkerchief cloth without un-woven spaces" falling under Commodity Category UI and Code No. 650217 which is different from "cotton textile woven with dyed yarn". Forthwith the goods were placed under seizure and forfeiture proceedings (Seizure Identification No. 5240) for violation of Central Bank Circular 44. Meanwhile, the goods were released under a bond posted by Central Surety and Insurance Co. in the amount of P8,472.36. Said amount which represents the appraised local market value of the imported articles was arrived at by adding to the landed cost 30% estimated profit following precedents.

After hearing the parties, the Collector of Customs of Manila found the merchandise liable for forfeiture under Sec. 1363(f) of the Revised Administrative Code for violation of Central Bank Circular 44. Thereupon, Litton appealed to the Commissioner of Customs but the latter rendered on March 25, 1960 the following orders:

"WHEREFORE, by authority of Section 1380 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, the Central Surety & Insurance Co. Bond No. G-21119, dated September 21, 1956, which was filed for the release of the articles in question, is hereby confiscated; and the principal, Litton & Co., Inc. as well as the aforesaid surety are hereby ordered to pay in CASH jointly and severally, the amount of EIGHT THOUSAND FOUR HUNDRED SEVENTY-TWO and 36/100 (P8,472.36), Philippine Currency, to the Bureau of Customs within thirty (30) days from receipt of a copy of this decision in accordance with the terms of the said bond."

On appeal the Court of Tax Appeals affirmed the abovementioned order.

Litton & Co., Inc. elevated the case to Us presenting the following propositions. (1) The repeal of Central Bank Circular 44 by Circular 33 abated the liability of forfeiture. (2) The appraised value of the merchandise should have been determined in the manner provided in Section 2 of Rule 13(a) of the Philippine Tariff Act of 1909, as amended, in relation to Sec. 1280 of the Revised Administrative Code, instead of in accordance with Section 1377 of the Revised Administrative Code, as was done. (3) Section 34 of Republic Act 265 should apply in this case to the exclusion of Section 1363(f) of the Revised Administrative Code, and accordingly the Collector of Customs of Manila should have certified the case to the City Fiscal of Manila.

It has been settled in previous similar cases that Central Bank Circular 133 did not repeal Circular 44 with respect

to the requirement of a release certificate.[1] But assuming arguendo that repeal took place, it did not have the effect of legalizing an importation which was made illegally prior to the repeal.

The Collector of Customs used the local market value of the merchandise in fixing the value appearing in the surety bond in accordance with Section 1377 of the Re-vised Administrative Code. In doing so, he merely added to the landed cost an estimated profit of 30%. Litton, on the other hand, contends that the appraised value should be that obtaining in the country of origin pursuant to Rule 13(a) of Section 2 of the Philippine Tariff Act of 1909.

Litton's contention has no merit. Rule 13(a), Section 2 of the Philippine Tariff Act of 1909, as amended, relates to the appraisal of importations for purposes of determining the customs duties; while Section 1377 of the Revised Administrative Code refers to appraisal of importations in connection with seizure proceedings, which is the case here.[2]

Appellant emphatically contends that Section 34 of Republic Act 265 is applicable to this case. We quote Section 34 hereunder:

"SEC. 34. Proceedings upon violation of laws and regulations. - Whenever any person or entity wilfully violates this Act or any order, instruction, rule or regulations legally is-sued by the Monetary Board, the person or persons responsible for such violation shall be punished by a fine of not more than twenty thousand pesos and by imprisonment of not more than five years."

Its applicability however extends to the criminal liability of the person or persons violating the regulations issued by the Monetary Board, in addition to the seizure and forfeiture proceedings in the Bureau of Customs against the imported merchandise affected in accordance with provisions of the Revised Administrative Code.[3] As suggested by counsel for Litton & Co., Inc., the Collector of Customs of Manila should apprise the City Fiscal of Manila of this case for appropriate prosecution of the persons or corporate officers criminally responsible.

WHEREFORE, the decision appealed from is affirmed. Costs against appellant.

SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave.

[1] *Bombay Dept. Store v. Commissioner of Customs*, L-20460, Sept. 30, 1965; *Lazaro v. Commissioner of Customs*, L-21790 & L-21794, Dec. 24, 1965.

[2] *Lazaro v. Commissioner of Customs*, L-21790 & L-21794, Dec. 24, 1965.

[3] *Pascual v. Commissioner of Customs*, L-12219, April 24, 1962.

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