

JUANA T. DE LA CRUZ, PETITIONER, VS. COURT OF TAX APPEALS AND THE COMMISSIONER OF CUSTOMS, RESPONDENTS.

G.R. Nos. L-23334 and L-23451. February 29, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal from a decision, of the Court of Tax Appeals, in the above-entitled two (2) cases — which were jointly tried and disposed of in a single decision — affirming decisions of the Commissioner of Customs ordering petitioner Juana de la Cruz and her surety, Alto Surety and Insurance Co., Inc., to pay jointly and severally, the sums of P158,219.00 (in CTA- 980, now G.R. No. L-23334) and P49,411.00 (in CTA-1150, now G R. No. L-23451), representing the value of articles imported by herein petitioner, allegedly in violation of Central Bank Circulars Nos. 44 and 45.

As stipulated by the parties and adopted by the Commission of Customs and the Court of Tax Appeals, the acts are:

"CTA CASE NO. 980

"1. That the merchandise covered by Seizure Identification Nos. 2589 and 2590 arrived in Manila from Hongkong, on February 15, 1955, on board the s/s 'HAIMENG', and were declared in Entries Nos. 13614 (Exh. 'A') and 13615 (Exh. 'B'), both series of 1955;

"2. That the shipment covered by Seizure Identification No. 2616 arrived in Manila from Hongkong on February 18, 1955, aboard the s/s. 'Tsimengteng', and was declared in Entry No. 14653 (Exh. 'C'), series of 1955;

"3. That the importation covered by Seizure Identification No. 2691 arrived in Manila from Hong-kong on March 4, 1955, on board the s/s 'STRAAT MOZAMBIQUE', and was declared in entry No. 18688 (Exh. 'D'), series of 1955;

"4. That the goods covered by Seizure Identification No. 2736 arrived in Manila from Hong-kong on March 17, 1955, via the s/s 'PRETCRIA' and were declared in Entries Nos. 23285 and 23286 (Exh. 'E'), both series of 1955;

"5. That the shipment covered by Seizure Identification No. 2842 arrived in Manila from Hong-kong on April 5, 1955, via the s/s 'SILVERASH' and was declared in Entry No. 30048 (Exh. 'F2'), series of 1955;

"6. That the importation covered by Seizure Identification No. 2868 arrived in Manila from Hong-kong on April 13, 1955, ex s/s 'TEGELBERG', and was declared in Entry No. 31754 (Exh. 'G'), series of 1955;

"7. That the shipment covered by Seizure Identification No. 2882 arrived in Manila from Hongkong on April 16, 1955, on board the s/s 'LEVERKUSEN' and was declared in Entry No. 34122 (Exh. 'H'), series of 1955;

"8. That the subject shipments are duly supported by proper shipping documents except consular invoices and bank release certificates, for which reason they were ordered seized for alleged violations in Central Bank

Circular Nos. 44 and 45 in relation to Sections 1363(f) and 1250 of the Revised Administrative Code.

"9. That the subject importations involved no dollar remittances or the sale of foreign ex-change; and

"10. That the shipments in question were released to claimant it under surety bonds pending the outcome of the seizure proceedings."

"CTA CASE NO. 1150

"1. That 381 packages of various foodstuff were consigned to Juana T. de la Cruz, which arrived in the port of Manila on June 23, 1955 from Hongkong on board the S/S 'Bencleuch' Reg. No. 731, and which were declared under Entry No. 56410, series of 1955, (Exh. 'A'), together with the bill of lading, (Exh. 'B'), the commercial invoice (Exh. 'C'), the official receipt evidencing payment of duties and taxes (Exh. 'D') and an official receipt evidencing the deposit of additional sales tax;

"2. That no Central Bank Release Certificate was submitted;

"3. That the merchandise was found to tally with the declaration in the entry and all duties and taxes thereon were paid. However, the Appraisers' Division reported the merchandise for seizure for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Sections 1363 (f) and 1250 in the Revised Administrative Code, because one of the requirements for release is the pre-presentation of Central Bank release certificate; and

"4. That the merchandise was released under surety bond pending seizure proceedings."

Upon the conclusion of said seizure proceedings, the Collector of Customs for the Port of Manila, in two (2) separate decisions ordered petitioner and her surety, to jointly and severally pay the full amount of the bonds filed by them for the release of the goods in question, upon the ground that the same had been imported in violation of said circulars, in relation to Sections 1250 and 1363(f) of the Revised Administrative Code. On appeal taken by petitioner, said decisions were affirmed by the Commissioner of Customs. Petitioner appealed from the latter's decisions to the Court of Tax Appeals, with the same result. Hence, the present appeal.

In her brief, petitioner maintains that the Court of Tax Appeals erred: (1) in holding that the importations are covered by Circulars Nos. 44 and 45 of the Central Bank; (2) in affirming the decisions of the Commissioner of Customs, despite the alleged repeal of said circulars by Circular No. 133 of the Monetary Board promulgated on January 21, 1962; (3) in not holding that the sanction prescribed for violation of said Circulars Nos. 44 and 45 is impossible, not by the customs authorities, but by the courts of justice, upon criminal prosecution instituted at the initiative of the, Central Bank; (4) in not holding that the customs authorities are in estoppel to decree the seizure of said goods, once the same have been released, after collecting the customs duties and taxes due for the importation thereof; and (5) in holding that dollar remittances were involved in the importation in question, notwithstanding the stipulation between the parties to the contrary.

We find no merit in this appeal. Indeed, it is already settled that that no-dollar importations, made while Central Bank Circular Nos. 44 and 45 were in force — such as those involved in the case bar — required, pursuant to the provisions of said circulars, a, Central Bank release certificate — under the theory that practically "all imports," including those involving no-dollar exchange, represent either an "immediate demand x x x or a potential demand, of foreign exchange"[1] — so that the Central Bank may know the precise volume of our imports of whatever nature, for guidance in the formulation of its policies; that importations, or the attempt to import goods without the required release certificate, constituted a violation of sections 1250 and 1363 of the Revised Administrative Code,[2] and are subject to the forfeiture therein provided; and that the liabilities thus incurred by the importer have not been abrogated or extinguished in consequence of the promulgation of Central Bank Circular No. 133.[3]

It may not be amiss to note that the enforcement of said section 1363 of the Revised Administrative Code and

other matters arising under the Customs Laws or other laws or parts of laws administered by the Bureau of Customs, including seizures made and forfeitures imposed in relation thereto, are explicitly placed by law under the authority of the Commission of Customs, whose power to decide said matters is subject to review by the Court of Tax Appeals;[4] that the bonds filed by petitioner and her surety for the release of the goods in question expressly acknowledge the authority of the Government to demand payment of the full amount of said bonds, should the forfeiture of said goods be eventually decreed; that the release of the goods was thus secured by herein petitioner subject to the right of the Government to decree the forfeiture of said goods; and that, accordingly, petitioner is in estoppel to question such right.

WHEREFORE, the decision appealed from should be, as it is hereby, affirmed, with costs against petitioner Juana T. de la Cruz.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Capulong vs. Act'g. Comm. of Customs, L-22991, January 16, 1968; People vs. Que Po Lay, 94 Phil., 640; People vs. Jolliffe, L-9553, May 13, 1959; Commissioner of Customs vs. Leuterio L-9142 October 17, 1959; Roxas vs. Sayoc, L-6502, November 29, 1956; Golar-Buchel & Cie. vs. Comm. of Customs, L-10994 & L-11012, December 29, 1959.

[2] Now Section 2530 of the Tariff and Customs Code.

[3] Capulong vs. Acting Commissioner of Customs, L-22991, January 16, 1968; Lazaro vs. Comm. of Customs, L-22511 & 22513, May 16, 1966; Capulong vs. Aseron, L-22989, May 14, 1966; Yupang-co & Sons, Inc. vs. Commissioner of Customs, L-22259, January 19, 1966; Bombay Department Store vs. Commissioner of Customs, L--20460, September 30, 1965; Tong Tek vs. Commissioner of Customs, L-11947, June 30, 1959; Pascual vs. Commissioner of Customs, L-10979, June 30, 1959; and People vs. Que Po Lay, 94 Phil., 640.

[4] See Sec. 7(2), Republic Act No. 1125.

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