

ANG TUAN KAI & CO., PETITIONER VS. THE IMPORT CONTROL COMMISSION, RESPONDENT.

G.R. No. L-4427. April 21, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

This petition for certiorari and mandamus against the Import Control Commission prays this Court either:

"a) Modify the resolution of the respondent Board dated December 11, 1950 (Annex B), as to credit in favor of the petitioner, their 1949 import quotas covering Rayon Textiles and Manufactures in the amount of P335,945.20 and Cotton Textiles and Manufactures in the amount of P4,809.41 against which the orders of the petitioner perfected with foreign suppliers before July 31, 1949 can be charged, even while the licenses to cover these 1949 import quotas be approved in 1951 when dollars are already available; and/or

b) That a peremptory order be issued against the respondent Board commanding the same to credit in its quota ledgers in favor of the petitioner herein, their 1949 import quotas allocations in the amounts previously stated, and "allow" the goods contracted for by petitioner with foreign suppliers before July 31, 1949 to "enter the country" and charge these orders to the petitioner's 1949 import quotas aforementioned."

Basis of the petition is Circular No. 12 of the Import Control office dated June 7, 1949 which in part reads as follows:

"All quotas for the first six months of 1949 must be covered by orders placed and accepted on or before July 31, 1949 otherwise they will be cancelled. Importers are therefore required to furnish the Import Control Office evidence of orders and acceptance referred to above. This requirement refers to all items with the exception of automobiles, toys and Christmas decorations. For the last two items, quotas for the first six months may be transferred to the second six months provided requests therefor are approved by the Import Control Office."

The petitioner, a duly registered partnership of Manila, alleges in substance (1) that it had placed orders for textiles amounting to about P340,000 with foreign suppliers which orders were accepted before July 31, 1949; (2) that in November 1950 it requested the respondent to allow importation of the textiles against its quota for 1949 pursuant to circular No. 12 and (3) but that respondent with grave abuse of authority and discretion has denied the request and instead ordered that said orders of Ang Tuan Kai & Co. be charged against the firm's 1951 quota and exchange allocations.

The respondent presented four defenses. We shall mention the first two only. In our view of the case it becomes unnecessary to take up the others. Such defenses are, first, that petitioner has a plain and adequate remedy which is an appeal to the President; and second, petitioner did not sufficiently show compliance with Circular No. 12, having failed to prove that the orders had been accepted before July 31, 1949.

The first defense seems to be valid. These special civil actions against administrative officers should not be entertained if superior administrative officers could grant relief.

The second defense is still better. The petitioner has utterly failed to show that its foreign orders for textiles had been accepted before July 31, 1949. In fact in its letter of November 7, 1950, annexed to the petition there is express acknowledgment of inability to prove such acceptance. And in this litigation no such proof was offered, notwithstanding respondent's denial of such acceptance. Under the terms of Circular No. 12, which is the petition's basis and foundation, the orders must have been accepted before July 31, 1949.

In this connection petitioner invites attention to respondent's action concerning the above letter:

"7. Letter of Mr. Niceforo S. Agaton dated November 27, 1950, requesting that ANG TUAN KAI & CO., be allowed to utilize its unused 1949 quotas for foreign orders placed before July 31, 1949: - THE BOARD DECIDED TO CHARGE the foreign orders placed by ANG TUAN KAI & CO., before July 31, 1949, AGAINST THE FIRM'S 1951 QUOTA AND EXCHANGE ALLOCATIONS."

And petitioner argues that such action implies admission that the order had been accepted, otherwise "the Board has no business charging unilateral unaccepted offers to buy foreign goods against any quota, much less a future quota."

In our opinion the above resolution may be understood to refer to foreign orders placed by Ang Tuan Kai & Co. when and if accepted. However even supposing that it necessarily implied that such foreign orders had been accepted, the implication can not be stretched further to include the essential element of acceptance before July 31, 1949.

In view of the foregoing, we reach the conclusion that the petition has failed to establish either abuse of discretion of respondent or a clear legal right of the petitioner under the terms of Circular No. 12. The petition is therefore denied, with costs. So ordered.

Paras, C. J., Feria, Pablo, Tuason, Montemayor, Reyes, and Bautista Angelo, JJ., concur.

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