

THE COMMISSIONER OF CUSTOMS, PETITIONER, VS. FARM IMPLEMENT AND MACHINERY COMPANY, RESPONDENT.

G.R. No. L-12260. May 30, 1960

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6b65a734643a/>

CONCEPCION, J.:

This is an appeal by the Commissioner of Customs from a decision of the Court of Tax Appeals, the dispositive part of which reads as follows:

"Wherefore, the decision of the Commissioner of Customs is hereby reversed. We decree the cancellation of Surety Bond No. C-54/7744 of the South Sea Surety & Insurance Co., Inc. in the amount of P12,483.77 which was filed for the release of the shipment in question. Without pronouncement as to costs."

The main facts are set forth in the decision appealed from in the following language:

"The petitioner has appealed from the decision of the Commissioner of Customs affirming the decision of the Collector of Customs of the Port of Manila, which ordered the forfeiture in favor of the Republic of the Philippines of thirty-four (34) packages containing sotanghon for alleged violation of Central Bank Circular No. 44, in relation to Section 1363 (f) of the Revised Administrative Code.

"The records of the case show that the shipment in question arrived at the Port of Manila on board the S.S. 'Hai Meng', Reg. No. 947, from Hongkong on July 23, 1954. It was consigned to the Farm Implement & Machinery Co., declared in Customs Entry No. 59908 (Exhibit '6') duly accompanied with consular invoice No. 1407 (Exhibit '5'), commercial invoice No. 03906 of Etta Trading Co., Hongkong, and Central Bank release certificate Ref. No. 54/3837 (Exhibits 'B' & '4'). The shipment is described as '34 Pkgs. containing 12,000 kilos cereal', and for purposes of the commodity classification of the Central Bank was classified by petitioner as falling under 'Commodity Code No. 040802-NEC.'

"Upon examination of the shipment by a customs officer, it was found to be 'sotanghon' and was classified as 'vermicelli' under Commodity Code No. 040804-UI, for which reason it was seized. Pending the seizure proceedings, the shipment was released to petitioner upon the filing of Surety Bond No. C-54/7744 of the South Sea Surety & Insurance Co., Inc. in the amount of P12,483.77. After due hearing, the Collector of Customs of Manila, on April 14, 1955 determined that the merchandise in question was subject to forfeiture for alleged violation of Central Bank Circular No. 44, in relation to Section 1363 (f) of the Revised Administrative Code, and therefore ordered the forfeiture of the aforesaid bond in favor of the Republic of the Philippines. On appeal, the decision of the Collector of Customs of Manila was affirmed in toto on March 12, 1956 by the Commissioner of Customs. From this decision, petitioner filed the instant petition for review.

"The only issue here is whether or not the thirty-four (34) packages of 'sotanghon' in question properly falls under Commodity Code No. 040802 (NEC) of the Statistical Classification of Commodities of the Central Bank implementing Central Bank Circulars Nos. 44 and 45, as claimed by petitioner, or under Commodity Code No. 040804 (UI), as claimed by the Government."

Respondent herein contends, and the Court of Tax Appeals held, that the merchandise in question falls under

Commodity Code No. 040802-NEC, reading: "Groats semolina and cereals; flaked, pearled or prepared in a manner not elsewhere specified (including prepared breakfast foods)".

However, appellant maintains that "sotanghon" comes under Commodity Code No. 040804-UI, which we quote:

"Macaroni, spaghetti, noodles, vermicelli and similar preparations."

particularly the last part thereof, namely, "similar preparations."

The terms used in the foregoing classifications are defined in Webster's International Dictionary as follows:

"Groats—dried grain, hulled and often broken or drushed, cracked fragments of wheat larger than grits; in oats, the edible portion of the kernel.

"Semolina—the purified middlings of durum or other hard wheat, used for macaroni and similar edible paste; seizing or course middlings.

"Cereal—1) any gross yielding forinaceous seeds suitable for food, as wheat, maize, rice, etc; also, the seeds or grain so produced either in their original state or commercially middlings. 2) A prepared foodstuff of grain, as oatmeal or flaked corn used especially with milk or cream as a breakfast food.

"Macaroni—a kind of paste, composed chiefly of wheat flour, dried in the form of slender tubes.

"Spaghetti—a variety of alimentary paste made in cords of small diameter, but larger than vermicelli and solti (not tubular as in macaroni).

"Vermicelli—a variety of alimentary paste made in cords of smaller diameter than spaghetti.

"Noodle—an alimentary paste shape in ribbon form and usually made with egg."

Moreover, Francisco A. Soliven, Chief of the Food Technology Division, Institute Science, testified that "Sotanghon" is a worm like food product made of glutinous rice which should be classified as "vermicelli." Indeed, it is a kind of alimentary paste made in cords, thus being a preparation similar to macaroni, spaghetti, noodle and vermicelli, falling under Commodity Code No. 04084-UI, not Commodity Code No. 040802-NEC.

It is urged, however, that macaroni, spaghetti, noodle and vermicelli are made of materials other than those used in "sotanghon". This circumstance does not detract, however, from the fact that the latter is similar to the former, not only in its appearance and manner of preparation, but, also, in the use thereof. Conversely, "sotanghon" differs from the merchandise specified in Commodity Code No. 040802-NEC, in appearance and manner of preparation, as well as in the use thereof. The only thing in common between both is the fact that the basic material in "sotanghon" is cereal, but so is the basic material of macaroni, spaghetti, noodle and vermicelli, which fall under Commodity Code No. 040804-UI. Besides, for a cereal to come under Commodity Code No. 040802-NEC, it must be "flaked, pearled or prepared in a manner not elsewhere specified (including prepared breakfast)", whereas "sotanghon" is prepared in the manner specified in Commodity Code No. 040804-UI.

Appellee next argues that Commodity Code No. 040802-NEC was amended on August 2, 1956, to read "cereal paste (macaroni, spaghetti, noodle, vermicelli, suatanghon and similar preparations)" and that the express mention therein of "sotanghon" indicates that the same was not included in this classification prior to said date. Such pretense is untenable, for said explicit mention by amendment does not negate the implied inclusion of "sotanghon" prior thereto, as testified to by said Mr. Soliven. In fact, as early as 1954, the legal counsel for the Central Bank had opined that "sotanghon" may be classified under said Commodity Code No. 040804-UI, and the record before us strongly suggests that the aforementioned amendment in 1956 had for its purpose, not to cure an omission, but to leave no room for doubt that "sotanghon" falls under such class.

Wherefore, the decision appealed from is hereby reversed, and that of the Commissioner of Customs affirmed, with costs against respondent Farm Implement and Machinery Company. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur. Reyes, J.B.L., and Endencia, JJ., took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.