

EUGENIA MANABAT VDA. DE LOPEZ AND THE EQUITABLE INSURANCE & CASUALTY CO., INC., PETITIONERS VS. THE HON. COURT OF TAX APPEALS, AND THE COMMISSIONER OF CUSTOMS, RESPONDENTS.

G.R. No. L-24870. January 21, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review on certiorari to obtain a reversal of the decision of the Court of Tax Appeals in C.T.A. Case No. 1463 affirming that of the Commissioner of Customs dated September 9, 1963, which upheld the decision of the Acting Collector of Customs of Manila dated April 11, 1961, in Seizure Identification Nos. 3211, 3234, 3246, 3250 and 3253, which decreed the forfeiture of the subject importations for violation of Central Bank Circular Nos. 44 and 45 in relation to Section 1363(f) and 1250 of the Revised Administrative Code. Both petitioners are also required to pay, jointly and severally, the Commissioner of Customs the amount of P58,505.00 representing amount of Surety Bonds Nos. 54934, 54954, 54975 and 54977 which were filed by petitioners for the release of the importations during the pendency of the case.

The issues raised herein are no longer new nor novel in the light of Our repeated pronouncements in a series of cases involving the same or similar situations where We categorically affirmed the authority of the Central Bank to issue Circular Nos. 44 and 45 and the legality of confiscation and forfeiture of the goods imported in violation thereof.

The stipulated facts show that shipments covered by Seizure Identification Nos. 3211, 3246, 3253, 3234, and 3250, which were of general merchandise consigned to petitioner Eugenia Manabat Vda. de Lopez, although estimated duties and sales tax due have been duly paid, were not covered by release certificates issued by the Central Bank or any of its duly authorized agent banks; that they were ordered seized for alleged violations of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) and 1250 of the Revised Administrative Code; that subject importations were, however, released to claimant under Surety Bond Nos. 54987, 54975, 54954 and 54934 of the petitioner Equitable Insurance and Casualty Co., Inc., for the total amount of P58,505.00; and that no dollar remittances therefor were involved.

When the petitioners appealed to the respondent Court of Tax Appeals the decision of the Commissioner of Customs upholding the decision of the Acting Collector of Customs of Manila which decreed the forfeiture of the subject importations, the same grounds which by now have become trite, repetitious, stale, if not antiquated, were raised by petitioner who argued that at the time of the importation of the subject shipments the Import Control Commission had already been abolished and there was no agency specifically designated by law to issue such import licenses; that as the importation in question involved no foreign exchange, it would be unreasonable to infer that said importations would be within the broad powers of the Central Bank to control; and that it would be unfair to hold the bonds of the petitioner Equitable Insurance and Casualty Co., Inc., answerable after the lapse of

more than six years when the goods, released under bond were finally declared subject to confiscation, considering that said goods were perishable in nature and that actually the government suffered no loss as all taxes and duties due to the government had been paid prior to the release.

The decision in C.T.A. Case No. 1463 correctly stated the issues raised therein as follows:

"Petitioners' contention ultimately boils down to the validity of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363(f) and 1250 of the Revised Administrative Code, upon which the decree of forfeiture of the subject importation was based. It is claimed that the issuance of said Central Bank Circulars Nos. 44 and 45 under the broad grant of powers by Section 74 of Republic Act No. 265, has no sanction in the law. And that, granting *arguendo* that the Central Bank had authority to regulate imports by implication from its charter, such powers were withdrawn, if not repealed by Section 20 of Republic Act No. 650."

Disregarding the odium of being overly repetitious but only to set at rest the remaining doubts of the parties in this case and all litigants in other cases of the same nature. We emphatically restate what We have stated in the cases of Pascual vs. Commissioner of Customs, G.R. No. L-10797, June 30, 1959; Acting Commissioner of Customs vs. Estanislao Leuterio, G.R. No. L-9142, Oct. 17, 1959; Commissioner of Customs vs. Serree Investment Co., G.R. No. L-12007, May 16, 1960; Commissioner of Customs vs. Eastern Sea Trading, G.R. No. L-14270, October 31, 1961; Commissioner of Customs vs. Santos, G.R. No. L-11911, March 30, 1962; Commissioner of Customs vs. Nepumoceno, G.R. No. L-11126, March 31, 1962; Serree Investment Co., vs. Commissioner of Customs, G.R. No. L-19564, November 28, 1964, that Central Bank Circular Nos. 44 and 45 are valid and binding under the general grant of authority provided in Section 74 of Republic Act 265.

When We consistently held that the Central Bank has the power to regulate the importation of merchandise, even if such importation does not involve dollar remittances, Our stand was firmly anchored on the reasoning enunciated in the case of Commissioner of Customs vs. Serree Investment Company, L-12007, 16 May 1960, citing the case of Pascual vs. Commissioner of Customs L-10797, 30 June 1959, to wit:

". . . Even granting that the importations in question do not require an immediate sale of foreign exchange, their importation into the Philippines from another country will ultimately require the sale of such exchange. The currency of one country is not legal tender in another. To pay for imports, traders have to avail themselves of foreign exchange, which is the conversion of an amount of money or currency of one country into an equivalent amount of money or currency of another. Every import of money or merchandise requires an immediate or future demand for foreign exchange."

"Section 74, Republic Act 265, authorizes the Monetary Board, with the approval of the President, to temporarily suspend or restrict sales of exchange and to subject all transactions in gold and foreign exchange to license during an exchange crisis in order to protect the International reserve and to give the Monetary Board and the Government time in which to take constructive measures to combat such a crisis. Circular No. 44, prohibiting the release by the Commissioner of Customs of any item of import without the presentation of a release certificate issued by the Central Bank or any authorized agent bank in the form prescribed by the Monetary Board, and Circular No. 45, requiring any person or entity who intends to import or receive goods from any foreign country for which no foreign exchange is required or will be required of the bank, to apply for a license from the Monetary Board to authorize such imports, are measures taken to check the unregulated flow of foreign exchange from the country and are within the power of the Monetary Board." (Italics supplied)

On the right of the Commissioner of Customs to order seizure and forfeiture of the imported goods not covered by license issued by the Central Bank, We clearly stated in the foregoing case (Commissioner of Customs vs. Serree, *supra*):

"Appellant contends that assuming that the importation in question require the sale of foreign exchange in

violation of Circular No. 44, yet they may not be forfeited under the said Circular because it does not expressly provide for the penalty of forfeiture..... Section 1363(1) of the Revised Administrative Code provides: 'Vessels, cargo, merchandise, and other subjects and things shall, under the conditions hereinbelow specified, be subject to forfeiture: . . .

(f) Any merchandise of prohibited importation or exportation, the importation or exportation of which is effected or attempted contrary to law, and all other merchandise which, in the opinion of the collector have been used, are or even intended to be used as instrument in the importation or exportation of the former (Italics supplied).'

"... But since the importation in question were made without the necessary import license issued by the Monetary Board pursuant to Circular No. 45 and the release certificates issued by the Central Bank or its authorized agent bank in the prescribed forms pursuant to Circular No. 44, they fall within the class of 'merchandise of prohibited importation' or merchandise 'the importation ... of which is effected ... contrary to law' that the Commissioner of Customs may seize and order forfeited. . . ."

We consistently upheld the same views without the slightest deviation in Commissioner vs. Eastern Sea Trading, L-14279, 31 Oct. 1961; Pascual vs. Collector of Customs, L-12219, 25 April 1962; Commissioner of Customs vs. Nepomuceno, L-11126, 31 March 1962; and Commissioner of Customs vs. Santos, L-11911, 30 March 1962.

Regarding the obligation of the petitioner Equitable Insurance and Casualty Co., Inc., for the bonds executed in favor of the Commissioner of Customs in consideration of the release of the seized goods pending the final disposition of the case, We restate with continued approbation and emphasis Our stand in the case of Philippine International Surety Co., Inc., vs. Commissioner of Customs, G.R. No. L-22209, 17 Dec. 1966, to wit:

"Pursuant thereto, (the bond of the surety) the surety bound itself to pay the sum of money specified in the bond, 'in the event that it should be finally decided that the merchandise herein mentioned should be forfeited to the government.' Thus, the surety guaranteed, not the legality of the importation, but, merely the payment of the appraised value of the goods imported and released, in the event aforementioned. As a consequence the surety would have a right to object and appeal if it were made to pay, either an amount exceeding its bond or without a previous decree of forfeiture of the merchandise. The bond did not, however, give the Surety a right to question the legality of the seizure or that of the aforementioned Circulars (Nos. 44 and 45) of the Central Bank. Indeed, the surety in the case at bar, stands in substantially the same position, legally, as the surety of the accused in a criminal case who is released on bail. Surely, such surety can not intervene in the proceedings, before the trial court, to establish the guilt or innocence of the accused and or appeal from its judgment convicting him as charged."

We added with a clear voice of finality: "At any rate, the authority of the Central Bank to issue Circular Nos. 44 and 45, and the validity of these circulars, as well as the propriety of the decree of confiscation and forfeiture of the goods imported in violation thereof are now well settled."

In Capulong vs. Aseron, L-22989, 14 May 1966, 17 SCRA 11, We held that while Circulars 44 and 45 do not expressly so provide, the forfeiture of goods imported in violation of those circulars may nevertheless be justified on the basis of Section 1363(f) of the Administrative Code (Sec. 2530(f) of Tarrif and Customs Code) which authorizes the forfeiture of "any merchandise of prohibited importation or exportation, the importation or exportation of which is effected or attempted "contrary to law." Circulars 44 and 45 should be correlated to Section 1363 of the Administrative Code and We stated that while goods imported in violation of these circulars (44 and 45) may not be considered "merchandise of prohibited importation," they nevertheless fall within the category of merchandise imported "contrary to law" because regulations issued pursuant to customs laws form part thereof, so that "violation of the said regulations can be regarded as coming within the purview of Section 1363(f)."

In the Capulong case, supra, We disposed the issue of alleged repeal of Central Bank Circulars 44 and 45 by Circular No. 133 by stating that "This contention is without merit. Central Bank Circular 133 has not exactly repealed Central Bank Circulars Nos. 44 and 45 but rather it reenacted them when it prescribed therein that all existing regulations not inconsistent with the circular are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular No. 133 have a common purpose — which is to require the presentation of a release certificate from the Central Bank before any importation to the Philippines may be made. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come into the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long drawn financial crisis in the country."

Finally, in the case of Sare Enterprise vs. Commissioner of Customs, L-22263, 28 August 1969, We stated, in an effort to stamp the same issues raised with the character of finality, that "The ruling in Capulong has been reiterated and reaffirmed in numerous decisions of this Court and it is now late in the day to suggest that it should be reexamined —"

WHEREFORE, the decision of the Court of Tax Appeals is affirmed with double costs against the petitioners.

Castro, (Chairman), Teehankee, Makasiar, and Muñoz Palma, JJ., concur.

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