

PO ENG TRADING, PETITIONER VS. COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. L-10508. November 29, 1960

Ponente: DIZON, J.

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DIZON, J.:

On May 25, 1954, appellant Po Eng Trading opened a Letter of Credit No. 20497 in connection with the importation of 42 cases of rubber boots from Hongkong. On July 14 of the same year, 42 cases consigned to appellant arrived at the Port of Manila on board the SS Schwabenstein, shipped by Tick Yau, of Hongkong. The shipment was declared in Entry No. 58929 (Exhibits E and 5) as 42 cases of "Rubber Boots for Miners" and was covered by a Bill of Lading (Exhibits B and 2), a Commercial Invoice (Exhibits D-3 and 4-C), a Joint Certificate of Origin (Exhibits D-1 and 4-A), Consular Invoice No. 1326 (Exhibits D and 4) and Central Bank Release Certificate No. RC-8367 (Exhibits C and 3). All these documents describe the shipment as 42 cases of "Rubber Boots for Miners" and the Central Bank Release Certificate classify the goods as "NEP", Code No. 850112.

As upon examination made on July 23, 1954 by Customs examiner Magno Joves, 13 of the cases were found to contain rubber boots for ladies and children, they were ordered seized because their attempted importation was in violation of Central Bank Circular No. 44, in relation to Section 1363 (f) of the Revised Administrative Code.

Appellant paid the estimated duties and sales tax on the whole shipment (Exhibits A and A-1) and also filed a Surety Bond No. 54/4417, dated August 20, 1954 and issued by the Paramount Surety & Insurance Company, Inc., to secure the release of the 13 cases. In the corresponding seizure proceedings had in the Manila Custom House the Commissioner of Customs, on January 24, 1955, rendered decision ordering the forfeiture of the 13 cases and releasing the others, upon the ground that rubber boots for ladies and children did not fall under Commodity Code No. 850112, mentioned in the Central Bank Release Certificate, which authorized the importation of rubber boots "for miners only". Upon denial of appellant's motion for reconsideration, it filed a petition for review with the Court of Tax Appeals, but the latter, on December 10, 1955, affirmed the decision of the Commissioner of Customs.

The question raised in this appeal are the following: (1) whether or not the boots in question-which appellant admits do not fall within the meaning of Commodity Code No. 850112 which refers to rubber boots for miners only are of "prohibited importation", and (2) whether said boots may be forfeited under Circular No. 44 of the Central Bank, in relation to Sections 1363 (f) and 1419 of the Revised Administrative Code.

Anent the first question, it is not denied that Commodity Code No. 850112 specifically mentions and authorizes the importation of "Boots, Rubber (for miners only)". The boots for women and children in question-which appellant's brief itself calls "ordinary boots for ladies and children" (p. 3)-are undoubtedly beyond the scope of this Commodity Code, not being boots for miners at all. If the Central Bank had in mind authorizing the importation of all kinds of rubber boots, its Circular No. 44 would not have limited importation exclusively to rubber boots "for miners". Appellant contends that the boots in question are not included in any of the Code

Numbers enumerated in the Statistical Classification of Commodities issued by the Central Bank to implement its Circular No. 44. It is believed, however, that they fall under UI, meaning "Unclassified List Category" (Appellant's brief p. 7) the importation of which is completely banned-as admitted by appellant. But even assuming that appellant's contention in this regard is correct, it does not justify the conclusion it draws, namely, that the importation of the boots for women and children in question "is not limited, restricted, regulated, or controlled, much less banned or prohibited by the Central Bank." As admitted by appellant, the Central Bank has the power to control foreign exchange and allocate the same to finance importation of goods. It is obvious that it was in the exercise of such power that the Central Bank issued its Circular No. 44 and the implementing-Statistical Classification of Commodities mentioned heretofore classifying and listing various articles for importation purposes. Equally obvious therefore is that goods not included in such classification are not subject to importation upon the principle of *Inclusio unius est exclusio alterius*.

Central Bank Circular No. 44, implementing Republic Act 265, has the effect of a Customs law as defined in the last paragraph of Section 1419, Revised Administrative Code. In accordance with Section 1250, of the Revised Administrative Code, the Collector of Customs has jurisdiction, indeed, has the duty to exercise jurisdiction to prevent importation or otherwise secure compliance with all legal requirements in the case of merchandise of prohibited importation or subject to importation only upon conditions prescribed by law. In the exercise of this jurisdiction, he may subject to forfeiture cargoes and other objects of prohibited importation, in accordance with Section 1363(f), Revised Administrative Code.

Central Bank Circular No. 44-approved on June 18, 1953, and published in the Official Gazette in June 19, 1953 (49 Off. Gaz. No. 6, p. 2192)-has the force and effect of law (*People vs. Que Po Lay*, 94 Phil., 640; 50 Off. Gaz. 4850). It clearly provides that no merchandise shall be released by the Bureau of Customs without the presentation of a Central Bank release certificate. As the certificate issued in this case calls only for rubber boots "for miners", and-as stated heretofore-boots for women and children do not fall within the meaning of Commodity Code No. 850112 which authorizes the importation of rubber boots "for miners only", the inevitable conclusion is that their importation is prohibited and are clearly subject to forfeiture in accordance with Section 1363 of the Revised Administrative Code.

Wherefore, the decision appealed from is affirmed, with, costs.

Paras, C.J., Padilla, Bautista Angela, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Decision affirmed.

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