

BIENVENIDO CAPULONG, PETITIONER, VS. THE ACTING COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. L-22991. January 16, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Petition for review of a decision of the Court of Tax Appeals.

On October 8, 1954, petitioner Bienvenido Capulong imported into the Philippines from Hongkong several packages of merchandise,[1] through the no-dollar remittance system. For failure to produce the Central Bank release certificate and the import license required in Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f), (m-3), (m-4) and (m-5) of the Revised Administrative Code, seizure proceedings were instituted against petitioner herein. During the pendency of said proceedings, the goods were subsequently released and delivered to the petitioner, upon submission of a surety bond, in the sum of P18,852.00, executed by him and the Pioneer Insurance and Surety Corporation, hereinafter referred to as the Surety.

After appropriate proceedings, on May 23, 1960, the Commissioner of Customs rendered a decision, against herein petitioner, in said forfeiture proceedings, and, since the goods involved therein had already been released to him upon the filing of the aforementioned bond, the same was ordered con-fiscated, and herein petitioner, as well as the Surety, were ordered, jointly and severally, to pay, in cash, to the Bureau of Customs, said sum of P18,852.00, within thirty (30) days from notice, in accordance with the terms and conditions of said bond. This decision was, on appeal to the Court of Tax Appeals, affirmed by the latter. Hence, the present petition for review.

It should be noted that, in the Court of Tax Appeals, petitioner admitted that the goods in question were imported in violation of Circulars Nos. 44 and 45 of the Central Bank, and that, accordingly, they are subject to forfeiture under said Section 1363 of the Revised Administrative Code.[2] Petitioner argued, however, that such liabilities as he may have incurred by reason of said violations had been abrogated in consequence of the promulgation of Central Bank Circular No. 133. The Court of Tax Appeals held that this pretense had already been resolved adversely to petitioner herein. Indeed, it has been repeatedly so decided by this Court.[3]

Petitioner has, moreover, expanded his line of defense. He now, in effect, maintains, also: (1) that violations of said Circulars Nos. 44 and 45 are not punishable with forfeiture; and (2) that the goods involved in this case are neither merchandise of prohibited importation, nor imported contrary to law.

That neither pretense is tenable has, likewise, been so held[4] several times. The penalty of forfeiture for the violations in question is provided in Section 1363 of the Revised Administrative Code.[5] Even goods brought to the Philippines on a no-dollar import basis were required to have a 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"[6] - so that the Central Bank may know the precise volume of our imports of whatever nature, for its guidance in the formulation and implementation of its policies. As a consequence, the importation or attempt to import goods without the corresponding release certificate constituted

a violation of the law.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against petitioner Bienvenido Capulong.

IT IS SO ORDERED.

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

[1] 10 packages of Taroos, 3 packages of Salted fish and 18 packages of ham.

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

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

[4] Act'g. Comm. of Customs vs. Leuterio, L-19142, Oct. 17, 1951; Tong Tek vs. Comm. of Customs, L-11947, June 30, 1959; Pascual vs. Comm. of Customs, L-10979, June 30, 1961; Comm. of Customs vs. Eastern Sea Trading, L-14279, Oct. 31, 1961; Comm. of Customs vs. Santos, L-11911, Mar. 30, 1962; Comm. of Customs vs. Nepomuceno, L-11126, Mar. 31, 1962; Seree Investment Co. vs. Comm. of Customs, L-20847-49, June 22, 1965; Bombay Department Store vs. Comm. of Customs, L-20460, Sept. 30, 1965; Seree Investment Co. vs. Comm. of Customs, L-21217, Nov. 29, 1965; Yupangco & Sons, Inc. vs. Comm. of Customs, L-22259, Jan. 19, 1966; Chan Kian vs. Collector of Customs, L-20803, Jan. 31, 1966; Phil. International Surety vs. Comm. of Customs, L-22209, Dec. 17, 1966; and Lazaro vs. Comm. of Customs, L-22512 & L-22514, Dec. 22, 1967.

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

[6] As stated in Circular No. 45 indicating the basic philosophy underlying the same.

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