

CHAN KIAN, DOING BUSINESS UNDER THE NAME AND STYLE SHANGHAI TING TING SOY FACTORY, PETITIONER, VS. THE COURT OF TAX APPEALS AND THE COLLECTOR OF CUSTOMS, RESPONDENTS.

G.R. No. L-12184. May 29, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Petition for review of a resolution of the Court of Tax Appeals, dismissing an appeal of the petitioner against an order of seizure issued by the Collector of Customs of Manila.

On September 19, 1955, the Collector of Customs of Manila ordered the forfeiture in favor of the Government of 7,166 bales and bundles of old newspaper consigned to the Shanghai Ting Ting Soy Factory for failure of the importers to secure a release certificate of the said merchandise in accordance with Circulars Nos. 44 and 45 of the Central Bank, and as said merchandise had already been released to consignee under surety bonds, for the forfeiture of the latter. Copy of this decision was furnished the Shanghai Ting Ting Soy Factory on October 24, 1955. As no appeal to the Commissioner of Customs was presented within 15 days, the Collector of Customs required the importer to pay the amount of the surety bonds filed to secure the release of said merchandise. On December 5, 1955, the importer moved to reconsider the order demanding payment of the amounts of the surety bonds, explaining that its failure to appeal from the decision of the Collector of Customs within 15 days as provided for by law was caused by belief on its part that full period of 30 days is granted for the said appeal.

The Collector of Customs denied the motion for reconsideration. Appeal against the order and the order of denial was made to the Commissioner of Customs but the latter also denied and dismissed the appeal. A petition for review was filed with the Court of Tax Appeals, but this court in a resolution dated January 4, 1957, also dismissed the petition on the ground that the court had no jurisdiction because the petitioner failed to appeal within the time provided for by law. It is against this order of the Court of Tax Appeals that the present petition is presented.

The petition admits that a copy of the decision of the Collector of Customs was furnished the petitioner on October 24, 1955. But he claims that he believed from the notice received from the Collector of Customs that "the period within which he should appeal was 30 days from the date of demand for payment; that his failure to appeal within 15 days was due to an honest mistake. This is the gist of the brief in his behalf by his counsel. It is argued in support of this claim that a rule of procedure may be overlooked if it does not involve a public policy and when a lapse in procedure arises from an honest mistake or an unforeseen event not prejudicial to the adverse party. We find no merit in this argument. The period of 15 days prescribed by law for an appeal in cases of forfeiture is not a matter of procedure which courts may ignore. The provisions of the customs law, like those of the internal revenue code, are not directory merely but mandatory. The period for an appeal is fixed by law at 15 days in order that penalties for violation of the laws or rules on importation may be promptly enforced. Questions involving

forfeiture should be decided promptly and expeditiously, as delays therein may result in the clogging of customs warehouses with merchandise illegally imported. It is beyond the power of the courts to extend the period for appeal. The Commissioner of Customs and the Court of Tax Appeals acted correctly in dismissing the appeal of the petitioner, as it was not filed within the period of 15 days prescribed by law.

It is also argued that the Commissioner of Customs has already authorized the appeal in its letter of March 19, 1956 when said Commissioner said therein: "This Office considers the same meritorious and the said appeal will be given due course." All that the Commissioner of Customs means is that he gives due course to the appeal, meaning, that he will allow the appeal to be prosecuted to the Court of Tax Appeals. Appeal to the Court of Tax Appeals is a matter of right on the part of any party who claims to have been prejudiced. The right to appeal is granted by, law and the right does not depend upon the correctness of the order appealed from. It is in this sense that the Commissioner of Customs allowed the appeal and permitted the petition for review to be filed in the Court of Tax Appeals. This order of the Commissioner of Customs cannot have the effect of waiving the provision of the law requiring that an appeal from the decision of the Collector of Customs on forfeiture must be filed within 15 days.

The decision of the Court of Tax Appeals dismissing the appeal is hereby affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angela, Concepcion, and Endencia, JJ., concur.

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