

SAMPAGUITA SHOE AND SLIPPER FACTORY, PETITIONER, VS. COMMISSIONER OF CUSTOMS, COLLECTOR OF CUSTOMS OF CEBU AND COURT OF TAX APPEALS, RESPONDENTS.

G. R. No. 10285. January 14, 1958

Ponente: FELIX, J.

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FELIX, J.:

This is a petition filed by the Sampaguita Shoe & Slipper Factory seeking to review the resolution of the Court of Tax Appeals in CTA Case No. 59 dismissing the petition filed therein on the ground that said Court has no jurisdiction to entertain the same. The facts of the case may be stated as follows:

In the latter part of 1953, the Sampaguita Shoe & Slipper Factory, a business concern in the city of Cebu, ordered from the Colonial Tanning Company of Boston, Massachusetts, U.S.A., 10,000 square feet of patent leather valued at \$3,300. On March 30, 1954, said goods arrived at the port of Cebu. The papers necessary for its release (Import Entry No. 1548-C, Consular Invoice B-14877 and Central Bank Release Certificate No. 1088) were found in order, but when the shipment, contained in 5 cases, was opened for examination and appraisal, and samples of the materials were shown to the customs authorities, they were declared to be upper leather and not patent leather; thus seizure proceedings were instituted (Cebu Seizure Identification No. 154) although the goods were released upon the consignee's filing a bond for P10,000.

Hearing was duly conducted and on May 19, 1954, the Collector of Customs of the port of Cebu rendered decision holding that in view of the difficulty in determining the purposes for which the leather in question would be utilized and in the absence of specific law or regulation prohibiting the importation of such kind of leather, the 5 cases of leather should be released to the importer upon payment of the taxes and other charges thereon. Said decision was sent by the Collector of Customs to the manager of the factory on May 21, 1954, with a letter of transmittal informing the latter that same shall not become final and executory until approved by the Commissioner of Customs.

On June of the same year, however, the Collector of Customs amended his previous decision by reversing the ruling laid down therein and this time holding that the imported leather was primarily intended as uppers of shoes and should not be classified as patent leather. The 5 cases covered by Import Entry No. 1548-C, s. 1954, were thus declared confiscated and forfeited to the Government pursuant to the provisions of Section 1363 (f) of the Revised Administrative Code and paragraph 9 of Central Bank Circulars Nos. 44 and 45. This amended decision was likewise sent by registered mail to the manager of the establishment with the notice that appeal, if any, from said decision should be interposed with the Commissioner within 15 days from receipt of said communication, otherwise the said decision would become final and executory. Said registered mail appeared to have been received by an employee of the establishment on June 10, 1954, as evidenced by the registry return card. At the same time, the Commissioner of Customs was furnished a copy of the amended decision, which was affirmed by said official.

On September 14, 1954, the importer received a letter from the Collector of Customs demanding the surrender of the goods subject of the proceedings or the payment of the sum of P10,000 in cash, which prompted the filing of a petition to set aside the amended decision referred to therein on the ground that the employee of said establishment who received the copy of said decision failed to give the same to the manager, who at that time was in Mindanao; that the latter actually got hold of the amended decision only on September 14, 1954, upon receipt of the letter of demand of the Collector; and that the attorney who appeared for the importer in the proceedings was not notified of said decision. It was thus prayed that the amended decision of June 1, 1954, be set aside and the respondent (Sampaguita Shoe & Slipper Factory) be given a chance to appeal from the same. This petition was again referred by the Collector of Customs to the Commissioner who in a 2nd indorsement dated December 3, 1954 reiterated his concurrence to the amended decision. Copy of the denial of its petition was received by the importer on December 29, 1954. The importer then filed a notice of appeal with the Court of Tax Appeals and the petition for review was actually sent on January 28, 1955. This petition, which was later amended on July 6, 1955, presented among other things the questions of (1) whether or not the evidence on record warranted the finding that the leather in question was upper and not patent leather; (2) whether the reversal by the Collector of Customs of his decision was lawful; (3) whether the service of a decision upon a person other than petitioner or his attorney of record commence the running of the period to appeal; and (4) whether an appeal from a decision of the Collector to the Commissioner of Customs who had already prejudged would still be necessary and might not be considered as academic.

The Commissioner of Customs, represented by the Solicitor General, filed a motion to dismiss contending that the decision of the Collector of Customs of Cebu was already final in view of petitioner's failure to appeal therefrom within 15 days from receipt thereof pursuant to the provisions of Section 1380 of the Revised Administrative Code; and that even granting that the 2nd indorsement of the Commissioner, dated December 3, 1954, might be treated as a ruling or decision of said official, the petition for review was likewise filed beyond the 30-day period prescribed by law.

On October 17, 1955, the Court of Tax Appeals issued a resolution holding that said tribunal had no jurisdiction to entertain the case by reason of petitioner's failure to appeal to the Commissioner of Customs. The motion for the reconsideration of said ruling filed by the importer having been denied, the matter was brought to Us in a petition to review by certiorari, petitioner maintaining that the lower Court erred:

- In holding that only decisions of the Commissioner of Customs, in cases involving customs laws, may be brought on appeal to said court;
- In holding that the opinion of the Commissioner of Customs or his approval of the Collector's decision in a case is not a decision which may be appealed to said court; and
- In holding that it has no jurisdiction to entertain the petition for review and in dismissing the same.

There is no question that petitioner did not interpose any appeal to the Commissioner of Customs but instead resorted to the Court of Tax Appeals upon the denial of its petition to set aside the amended decision of the Collector of Customs, supposedly in its conviction that an appeal would only be futile because the Commissioner already prejudged the case when he took a hand in the seizure of the imported goods and influenced the amendment of the decision appealed from. Furthermore, said official already manifested his stand by signifying his conformity with said amended decision in the 2nd Indorsement dated December 3, 1954.

Section 1380 of the Revised Administrative Code explicitly provides:

Sec. 1380. REVIEW BY COMMISSIONER.-The person aggrieved by the decision of the Collector of Customs in any matter presented upon protest or by his action in any seizure may, within fifteen days after

notification in writing by the Collector of his action or decision, give written notice to the Collector signifying his desire to have the matter reviewed by the Commissioner.

Thereupon, the collector of customs shall forthwith transmit all the papers in the cause to the Commissioner, who shall approve, modify, or reverse the action of his subordinate and shall take such steps and make such order or orders as may be necessary to give effect to his decision.

Petitioner, however, asserts that Section 11 of Republic Act No. 1125, which reads as follows:

Sec. 11. WHO MAY APPEAL; EFFECT OF APPEAL.-Any person, as sociation or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs, or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after receipt of such decision or ruling.

speaks of appeals from decision of the Collector of Customs and thus concludes that an appeal may be brought directly to the Court of Tax Appeals without the necessity of first bringing the matter to the attention of the Commissioners. On the other hand, Section 7 of the same statute conferring jurisdiction on the said Court of Tax Appeals prescribes the following:

Sec. 7. JURISDICTION.-The Court of Tax: Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided-

* * * * *

(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto, or other matters arising¹ under the Customs Law or other law or part of law administered by the Bureau of Customs;

* * * * *

Respondent Court of Tax Appeals in trying to offer an explanation on this apparent inconsistency in the wording of the Law, expresses its belief that such was brought about by an oversight on the part of the Legislature and contends that the phrase "Collector of Customs" appearing in section 11 should properly be read as Commissioner of Customs". In disputing this line of argument of the Tax Court, petitioner contends that there is no need for such interpretation because the language of the law is clear and that even granting that there exists an inconsistency Section 11 must prevail over Section 7 because the former provision is latest in the order of position. It is likewise intimated that Republic Act No. 1125 opens 2 recourses for aggrieved parties, one under Section 7 and another falling under Section 11 thereof. We cannot countenance this argument because while it is true that where the language of a statute is plain and unambiguous there is no occasion for construction, even though other meanings could be found (Crawford, Statutory Construction, sec. 162, p. 250-251), yet, considering that in the instant case, the apparent inconsistency already pointed out creates a certain degree of vagueness that may likely result in confusion in the application of the law, the court, must of necessity step in and exercise its duty to interpret it and determine the intent of Congress in enacting the same. An examination of the Congressional Record bearing the discussions on H. Bill No. 175, which eventually became Republic Act No. 1125, in the hope that it could shed light on the matter, elicits no result. It is significant, however, that in the explanatory note of the bill and the discussions that ensued following the presentation of the same for the consideration of the lawmaking body, reference was consistently made to cases arising from decisions of the Collector of Internal Revenue, Commissioner of Customs and Boards of Assessment Appeals. It must also be remembered that the Court of Tax Appeals merely took over the functions previously exercised by the defunct Board of Tax Appeals and the Courts of First Instance, which then had jurisdiction to review decisions of the Commissioner of Customs and pass upon

matters arising under the Customs Laws (Executive Order No. 401-A, Jan. 5, 1953, Sec. 1380, Revised Administrative Code). Moreover, in the case of *Rufino Lopez & Sons, Inc. vs. Court of Tax Appeals*,* 53 Off. Gaz., No. 10, p. 3065, this Court, resolving the same question herein involved, has already pronounced through Mr. Justice Marceliano Montemayor that the Legislature must have meant and intended to say Commissioner of Customs instead of Collector of Customs in the framing of Section 11 of Republic Act No. 1125, and in effect rectified said clerical error. It would really seem illogical that in laying down the jurisdiction of the Tax Court, the law would confine the same to the review of decisions of the Commissioner of Customs and then in the same breath allow aggrieved parties to appeal directly from decisions of the Collector to the same Court.

Petitioner, however, advanced the theory that the respondent Commissioner's concurrence to the amended decision of the Collector of Customs embodied in the 2nd Indorsement dated December 3, 1954, may be considered a decision from which appeal may be interposed. It is an elementary rule in procedure that a decision must be in writing, personally and directly prepared by the judge (or person or body lawfully authorized to issue the same), signed by him, stating clearly and distinctly the facts and the law on which it is based (Sec. 1, Rule 35, Rules of Court). In expressing his conformity with the amended decision, it may be argued that the findings of fact and the ruling of the Collector of Customs had been adopted by the Commissioner and thus the 2nd Indorsement containing said conformity meets the requirements of the Rules of Court. We must remember, however, that the Commissioner of Customs, as head of that Bureau (Insular Collector of Customs), exercises the power of supervision and control over his subordinates (Sec. 1152, R.A.C.). It will be observed that in the instant case the action of the Commissioner as regards matters referred to him by the Collector was only supervisory in nature and his conformity or disagreement to the rulings of the latter did not transform said decisions into that of the Commissioner. Independently of the opinion of the Commissioner on matters brought to his attention for advise by the Collector, the parties therefore still have the right to appeal the controversy to him for the proper determination of his office. As the law on the matter actually stands, We find that the appeal made available to an importer or person aggrieved by a decision or ruling of any collector of customs of the Philippines has 2 phases: first, the one provided for in Section 1380 of the Revised Administrative Code, i.e., such party is given 15 days from receipt of the adverse ruling or decision of the Collector to give notice in writing to the latter signifying his desire to have the matter reviewed by the Commissioner of Customs, and second, if still dissatisfied, his appeal could be projected to the Court of Tax Appeals pursuant to Section 7 of Act 1125 by filing with said tribunal a petition within 30 days from receipt of notice of the decision or ruling sought to be reviewed.

In the case at bar, it appears that the importer failed to observe the procedure laid down by Section 1380 of the Revised Administrative Code aforementioned, thus, the lower Court acted properly in dismissing the petition filed therein in view of petitioner's failure to exhaust administrative remedies. The doctrine of exhaustion of administrative reliefs is indeed a sound rule for it provides for a policy of orderly procedure which favors a preliminary administrative sifting process, and serves to prevent attempts to swamp the courts by a resort to them in the first instance (*United States vs. Sing Tuck*, 194 US 161. 48 L ed 917, 24 S Ct 621; *Oklahoma Pub. Welfare Commission vs. State* 186 Okla. 654, 105 P. (d) 547, 130 ALR 873). As already ruled in the aforementioned case of *Rufino Lopez & Sons, Inc. vs. The Court of Tax Appeals*, supra, "it is a sound rule that before one resorts to the Courts, the administrative remedy provided by law should first be exhausted". As petitioner herein did not interpose an appeal to the Commissioner of Customs from the decision of the Collector of Customs of Cebu within the period of 15 days prescribed by law, said decision of the latter became final and executory; hence, petitioner cannot take its case on appeal to the Court of Tax Appeals. Anyway, and even if We would consider that it could, We find that petitioner has also failed to appeal from any Commissioner of Customs' decision on the matter to the Court of Tax Appeals within the time prescribed by Section 11 of Republic Act No. 1125.

As the third issue raised by petitioner necessarily rests on the soundness of the first 2 questions already discussed,

and considering the conclusions thus arrived at, there is no need for US to pass upon the same.

Wherefore, the resolution of the Court of Tax Appeals in Case No. 59 submitted to Us for review, is hereby affirmed, with costs against petitioner. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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