

NEGROS NAVIGATION CO., INC., PETITIONER, VS. THE COMMISSIONER OF CUSTOMS, ET AL., RESPONDENTS.

G.R. No. 18629. May 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On December 20, 1960, the Negros Navigation Co., Inc., filed with the Court of Tax Appeals a petition alleging in substance that it had purchased two new marine engines to replace the old ones used by one of its motor vessels named "Don Julio"; that the old engines were temporarily deposited along the berthing place of the ship in the Iloilo wharf and that notwithstanding that said old marine engines were not cargoes brought by said ship and were merely used as replacement and spare parts, the Collector of Customs assessed against the company storage charges in the amount of P19,601.92. The company prayed that it be declared exempt from the payment of said storage charges.

On February 7, 1961, the Commissioner of Customs moved to dismiss the petition on the ground that the Court of Tax Appeals had no jurisdiction to entertain the same in view of the fact that the company did not appeal the decision of the Collector of Customs to the Commissioner of Customs within the reglementary period and, therefore, there is no decision of the Commissioner of Customs that may be reviewed.

On February 15, 1961, the company opposed the motion to dismiss insisting that the Commissioner of Customs had already rendered a ruling on the case on November 21, 1958 and that there was no need for it to appeal from the decision of the Collector of Customs to the Commissioner of Customs because "there was no ruling of the Collector of Iloilo to speak of as from the start the first ruling on the matter was that of November 21, 1958 of Mr. Capapas, the Commissioner of Customs himself."

The Court of Tax Appeals found that it had no jurisdiction over the petition for review and, hence, dismissed the same. In due time, the company took the present appeal.

The pertinent facts as found by the Court of Tax Appeals are: In a letter dated July 10, 1958, the Collector of Customs of Iloilo demanded from petitioner the payment of the sum of P9,601.92 as storage charges of two marine engines which had been stored at Muelle Looney since November 29, 1956. Petitioner requested the reconsideration of the demand in a letter dated July 16, 1958. In an indorsement dated July 22, 1958, the Collector of Customs requested the Commissioner of Customs for information as to whether or not the engines in question may be considered coastwise cargo for purposes of assessing and collecting storage charges under Section 3001 (k) of the Tariff and Customs Code. In reply thereto, the Commissioner, in a second indorsement of November 21, 1958, informed the Collector that "the articles, subject matter of the present indorsement, may be considered as cargo in accordance with the ruling of the Supreme Court in the case of *United States vs. Steamship Rubi*, 32 Phil., 228" and directed the latter to collect the storage charges on the engines in question. Pursuant to said opinion, the Collector of Customs of Iloilo demanded payment of storage charges as abovestated. Again, petitioner requested that the demand for payment be reconsidered. This request was referred by the Collector to

the Commissioner of Customs, who found no basis for changing his ruling of November 21, 1958. Consequently, the Collector, in his letter of November 28, 1960, gave petitioner a peremptory period of ten days from receipt within which to pay the Storage charges of P19,601.92.

As stated by the government, the determination of the issue concerning the jurisdiction of the Court of Tax Appeals hinges on the determination of whether or not there is with respect to the case of petitioner a "decision" or the Commissioner of Customs that is reviewable by it. If there is such a decision, petitioner is correct in appealing to the Court of Tax Appeals; if there is no such decision then the appeal is improper:

Petitioner contends that the two rulings of the Commissioner of Customs dated November 21, 1958 and November 11, 1960 should be considered decision for purposes of giving jurisdiction to the Court of Tax Appeals, whereas the Commissioner of Customs sustains the contrary because said rulings were not given in connection with any appeal interposed by petitioner from any ruling of the Collector of Customs but were rather given in connection with a request for opinion made by the Collector in the performance of his official duties.

In upholding the contention of respondents, the Court of Tax Appeals said:

"What is being actually appealed to as is the decision of the Collector of Customs for the port of Iloilo imposing storage charges in the marine engines in question. As a matter of fact the various demands for payment of the charges were signed either by the collector or the acting Collector. Moreover, the petitioner neither protested such ruling or decision nor gave written notice to the Collector of his desire, to have the matter reviewed by the Commissioner of Customs."

We are now asked to overrule this, ruling more on grounds of equity than on general principles of law. It is insisted upon that as the Commissioner of Customs had already made his stand on the matter, even if it is upon a direct request for opinion by the Collector of Customs, no useful purpose is seen for petitioner to still appeal to the former official. Counsel considers this step superfluous and unnecessary bearing in mind that the Commissioner had already made thereon his stand on the matter. But in answer to his argument, it is enough that we quote hereunder what we said in the case of *Sampaguita Shoe & Slipper Factory vs. Commissioner, et al.*,^[1] which is on all fours with the present case:

"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 requirement 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 decision into that of 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 si ill 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."

On the strength of the above pronouncement, we have no other alternative than to affirm, as we now do, the resolution appealed from dismissing the petition under consideration.

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Paredes, Dizon, and Regala, JJ., concur.

[1] 102 Phil., 850.

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