

PHILIPPINE INTERNATIONAL SURETY COMPANY, INC., PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. 20980. November 29, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On August 17, 1955 the following cargoes:

87 bales of cotton textiles, Reg. No. 968, Entry No. 71545, series of 1955 valued at US \$33,000.00

100 bales of cotton textiles Reg. No. 968, Entry No. 71546, series of 1955 valued at \$45,000.00.

arrived in the Port of Manila m board S/S "Henrik" from Tah Shun Company, Hong Kong consigned to Rosol Pry Goods. The cargoes were accompanied by bills of lading and commercial invoices but were not covered by a consular invoice and Central Bank release certificate required by the Central Bank Circulars Nos. 44 and 45.

For want of a Central Bank release certificate the stated goods were subjected to seizure proceedings under Seizure Identification Nos. 3811 and 3812 for violation of Central Bank Circulars Nos. 44 and 45 in relation to Sections 1368 (f) and 1250 of the Revised Administrative Code.[1] Meanwhile, said goods were released from customs custody under bond with the Philippines International Surety Company, Inc. as surety. On December 24, 1956, the Collector of Customs declared the 187 bales of cotton textiles subject to seizure, decreed the bonds forfeited in favor of the Government and ordered Rosol Pry Goods and Philippines International Surety Company, Inc., jointly and severally, to pay the sum of P247,952.15 representing the appraised value of the goods. Both claimant and surety appealed to the Commissioner of Customs.

The Commissioner of Customs affirmed the decision of the Collector of Customs on December 11, 1959 and in due time Philippines International Surety Company, Inc. appealed to the Court of Tax Appeals. Rosol Dry Goods, the claimant, did not appeal.

In the Court of Tax Appeals, the Commissioner of Customs moved to dismiss the appeal of Philippines International Surety Company, Inc., on the ground that being a mere surety, the latter has no legal capacity to file an appeal in the Court of Tax Appeals for it was not "adversely affected", by the appealed decision within the contemplation of Section 11 of Republic Act 1125. The motion was granted and the surety's petition for review was dismissed. Hence, this appeal by the Philippines International Surety Company, Inc.

The issue is whether or not the surety of a claimant consignee of an importation in a seizure proceedings can appeal from the decision of the Commissioner of Customs to the Court of Tax Appeals.

The pertinent law is the first paragraph of Section 11 of Republic Act 1125 which we quote hereunder:

"SEC. 11. Who may appeal; effect of appeal. Any person, association 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 the

receipt of such decision or ruling." (*Italics supplied*)

Any person, association or corporation adversely affected by a decision of the Commissioner of Internal Revenue, Commissioner of Customs and any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals. In two previous decisions, we held that the city can appeal to the Tax Court from the decision of the Board of Assessment Appeals for it stood to lose a yearly income equivalent to the realty tax involved in the decision.[2] In this case, appellant has been declared liable, jointly and severally with Rosol Dry Goods, for the payment of P247,952.15, which is, no doubt, adverse to its proprietary and pecuniary interest.

It may be noteworthy to observe that the 187 bales of cotton textiles were released from customs custody and in their place Rosol Dry Goods put up appellant's bonds. When the Collector of Customs, therefore, ordered the seizure and forfeiture of the importation, it was bonds, not the cotton textiles, which were ordered confiscated. And, since appellant is the bondsman, it has to answer for the liability by reason of the forfeiture. In this wise, appellant is just as adversely affected as the claimant consignee itself.

Being a person pecuniarily affected adversely by the decision of the Commissioner of Customs, we find no difficulty in seeing appellant's right to appeal from said decision in accordance with Section 11 of Republic Act 1125 aforequoted. For, the law does not limit the right of appeal to an importer, consignee or claimant of the importation subject of the seizure and forfeiture. Section 11 is worded in broad terms and the Philippines International Surety Company, Inc. comes within its purview. Moreover, if it was the intention of Congress to allow only the importer, consignee or claimant of the goods to appeal to the Tax Court, it would have said so.

Furthermore, as aforestated the decision of the Commissioner of Customs ordered appellant, jointly and severally with Rosol Dry Goods, to pay the sum of P247,952.15. If, appellant were not allowed to appeal from said decision to the courts of justice, we would be depriving it of its day in court and its property without due process of law.

We are not unmindful of our decision in *Philippine International Surety Company, Inc. vs. Commissioner of Customs*. [3] In said case, we ruled that since the surety failed to appeal from the decision of the Collector of Customs, said decision became final and executory as against it. Consequently, it could not be allowed to appeal from the decision of the Commissioner of Customs to the Court of Tax Appeals. Said case therefore is not applicable here.

Wherefore, the resolution appealed from is hereby reversed and set aside. Let this case be remanded to the Court of Tax Appeals for further proceedings.

Bengzon, C. J., Bautista Angelo, Concepción, Reyes, J. B. L., Barrera, Dizon, Regala, Makatintal, and Zaldivar, JJ., concur.

[1] Now Sections 2530 (f) and 1207, respectively, Republic 1937.

[2] *City of Manila vs. Board of Assessment Appeals*, L-18784, April 30, 1964; *Municipal Board vs. Court of Tax Appeals*, L-18946, December 26, 1964.

[3] L-18291, January 31, 1964.

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