

FELIPE YUPANGCO & SONS, INC., PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.

G. R. No. 22259. January 19, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

In December 1954, Felipe Yupangco & Sons, Inc. imported from New York, U.S.A. twenty-three (23) boxes which it declared as phonograph parts and materials. The letter of credit, consular invoice, bill of lading and Central Bank release certificate covering the importation, described the same as phonograph parts and materials under Central Bank Commodity Code Classification 890102 NEC. However, its commercial invoice listed the articles as follows:

Description	Unit	Price	Amount
"6 sets of Parts and Materials for Wurlitzer			
Phonographs Model 1700F			
"6 1700F Deluxe Phonographs (Unassembled)			
High Fidelity			
.....		735.000	
			4,410.00
UNASSEMBLED AS FOLLOWS:			
Record changer completely assembled		completely assembled	
Amplifier		completely assembled	
Speaker		completely assembled	
Coin Mechanism		completely assembled	
Cabin Trim Parts		completely assembled	
Cabinet		knocked down, finished & rubbed	
Less 6—Part No. 60760 glass domes (including discount)			

Represents Box No. 12 lost in shipment.

220 Volt, 60 Cycle

Adapted:

1 play—One 10 cent Philippine Coin

Service Manuals

Packed for Export"

Upon examination, Customs examiners found the shipment to consist of six complete Wurlitzer coin-operated phonograph machines in knocked down condition instead of mere phonograph parts and materials. Accordingly, the articles were classified as coin-operated phonograph machines under Code 710660 UI and subjected to seizure proceedings for lack of the proper Central Bank release certificate.

Meanwhile, the Collector of Customs released the goods to Felipe Yupangco & Sons, Inc. who posted Surety Bond No. 164 of Fidelity and Surety Company of the Philippines Islands in the sum of P15,630.00. Customs duties and taxes were duly paid.

On March 24, 1960 the Collector of Customs of Manila declared the shipment forfeited for violation of Central Bank Circulars 44 and 45 in relation to Section 1250 and 1363(f) of the Revised Administrative Code. This decision was affirmed by the Commissioner of Customs and the importer appealed to the Court of Tax Appeals

The Court of Tax Appeals found the commodities imported to be six unassembled coin-operated phonograph machines rather than phonograph parts and materials as declared by the importer. Consequently, it rendered judgment sustaining the forfeiture. Hence, this appeal.

The parties raised the following issues: (1) Should the importation in question be classified as phonograph parts and materials (890102 NEC) as claimed by the importer or as coin-operated phonograph machines (710660 UI) as contended by the Commissioner of Customs? (2) If classified as coin-operated phonograph machines, would the importation be subject to forfeiture for violation of Central Bank Circulars 44 and 45 in relation to Sections 1250 and 1363 (f) of the Revised Administrative Code? (3) Granting that under Circulars 44 and 45 the importation should be classified under Code 710660 UI, did Circular 133 not repeal said circulars thereby abrogating the code classification?

The pronouncement of the Court of Tax Appeals that the importation in question in reality consisted of six complete coin-operated phonograph machines instead of phonograph parts and materials is a finding of fact which, if reasonably supported by evidence, is binding upon this Court. It is a settled rule that in petitions to review the decisions of the Court of Tax Appeals only questions of law may be raised and may be passed upon by his Court.[1] The lower court's finding is based on the statement of the Customs examiner who conducted actual physical examination of the goods, the commercial invoice and the packing list, all of which form part of the Customs record. We particularly observe from the commercial invoice that the unit price of the imported articles is per phonograph, not per assembled part, i.e., \$735 per phonograph, thus giving a clear impression that petitioner imported phonographs, not only parts thereof. For, if the importation consisted only of parts and materials, the unit price would invariably be per part.

Upon scrutiny of the record, we find that the evidence reasonably supports the findings of fact of the Court of Tax Appeals. Said findings should remain undisturbed.

Since the phonographs were imported in knocked down condition, should they be classified as phonograph parts

and materials under Code Classification 890102 NEC or as coin-operated phonograph machines under Code Classification 710660 UI? In a previous case with facts analogous to those of the instant case, we held that the complete article, even in their knocked down condition, is dutiable as an entirety.[2] Following said ruling, the knocked down phonographs ought to be classified as complete phonographs with Code Classification- 710660 UI.

The Central Bank release certificate presented by the importer calls for phonograph parts and materials with Code Classification 890102 NEC. Obviously, said release certificate did not at all cover the subject importation for as aforesaid the same consists of coin-operated phonograph machines with Code Classification 710660 UI. Such discrepancy is violative of the Central Bank Circulars 44 and 45 and will subject the importation in question to forfeiture pursuant to Sections 1250 and 1363 (f) of the Revised Administrative Code.[3]

It is however maintained that Circular 133 repealed Circulars 44 and 45 which had the effect of abrogating the commodity code classification. This argument is of no moment. Far from abrogating the commodity code classification, appended to Circular 44, Circular 133 makes use of the same to determine the amount of special time deposit that should accompany any letter of credit.[4]

Wherefore, the decision appealed from is hereby affirmed. With costs. So ordered.

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

Decision affirmed.

[1] Sanchez vs. Commissioner of Customs, 54 Off. Gaz. (2) 361.

[2] Bombay Department Store vs. Commissioner of Customs, L-20489, June 22, 1965.

[3] Bombay Department Store vs. 'Commissioner of Customs, L-20460, September 30, 1965; Serree Investment Company vs. Commissioner of Customs, L-21217, November 29, 1965.

[4] Section 2, Circular 133 of the Central Bank.

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