

MATSUI SAWHATSU & MORI, PETITIONER, VS. C. C. HAMMOND, INSULAR AUDITOR OF THE PHILIPPINE ISLANDS, RESPONDENT.

G. R. No. 35242. August 06, 1931

Ponente: ROMUALDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-35242/>

ROMUALDEZ, J.:

The petitioner prays for a writ of mandamus to compel the Auditor of the Philippine Islands to countersign three warrants issued by the Insular Collector of Customs for the refund of certain import duties upon merchandise paid at the port of Davao, and alleged to be excessive.

The Insular Auditor has refused to countersign said warrants first, because the petitioner did not file a protest in due time; second, because the error in the alleged excessive appraisement is not a clerical error within the meaning of section 1300 of the Administrative Code; and third, because even assuming it were a clerical error, no relief can be granted, because the original liquidation wherein the alleged error was committed, has become final and conclusive by the expiration of the statutory period of one year from the date thereof for its correction.

Counsel for the petitioning corporation contend that the case comes under either section 1300 or section 1369 of the Administrative Code; that no protest was necessary because the error was clerical within the scope of section 1300 of said Code, and that the written notice of error filed by the petitioner was sufficient; that the original liquidation was merely "tentative;" and that the Insular Auditor's duty to countersign the warrants aforementioned is ministerial, and therefore he may be compelled to perform it by mandamus.

Since the parties have not discussed any question of fact, but have argued the cause and submitted it without further evidence, the facts set out in their pleadings are deemed submitted to this court for the decision of the case.

These facts are: That during the greater part of the year 1929, the plaintiff corporation imported into the port of Davao, on different dates, various merchandise on which the duties were liquidated within the year, the local collector of customs relying upon the exchange rate at "the time of exportation for the conversion of the Japanese yen into United States currency, instead of the rate of exchange of the Federal Reserve Bank, proclaimed by the United States Secretary of the Treasury, as required by the Bureau of Customs regulations. After the petitioner had paid the duties thus computed, the imported merchandise was delivered to it, the aforementioned collector of customs having notified it at the time of the liquidation that if the petitioner desired to protect its rights, it should file a protest against such liquidation.

The petitioner did not file a protest, although some months later it addressed a petition to the Insular Collector of Customs, which, not being answered, was repeated, asking for the refund of the excess paid on account of the erroneous liquidation of the imported merchandise. (Exhibits B and C.)

The petition was formally acted upon, and the Insular Collector of Customs, after making a new liquidation, issued in November, 1930, the warrants in favor of the petitioner herein, numbered 1691525, 1691526, and 1691559, for the amounts of P1,100.56, P825.86, and P19.32, respectively.

These warrants were sent to the Insular Auditor for his signature, but he refused to countersign them for the reasons stated above.

After the Auditor had denied a reconsideration of his refusal to countersign, the plaintiff corporation instituted the present mandamus proceedings.

Section 1300 of the Administrative Code is not applicable to this case. The original liquidation of the duties in question contained none of the errors referred to in this section, The application of the current rate of exchange to such liquidation instead of the rate of the Federal Reserve Bank proclaimed by the Secretary of the Treasury of the United States, was not a clerical error or any of the other errors provided for in said section 1300 of the Administrative Code. As defined in 17 Corpus Juris, page 637, a manifest clerical error is one that is visible to the eye or obvious to the understanding, and is apparent from the papers to the eye of the appraiser and collector.

Inasmuch as section 1300 of the Administrative Code is not applicable to the original liquidation, the latter was subject to protest and should have been protested in due time unless the interested party was willing to waive its rights.

The letters Exhibits B and C cannot be considered a protest because they do not contain the requisites of section 1372 of the Administrative Code.

Nor may it be contended that those requisites could not be complied with because the exact rates of exchange were then unknown. It would have been sufficient to base the protest upon the omission to apply the rates required by the regulations, even without pointing out what those rates were, inasmuch as they were then unknown. Section 1372 of the Administrative Code requires "reasonable precision," and the ground just indicated could under the circumstances of the case, be considered to have been made with the only precision then possible, and therefore with reasonable precision.

For lack of protest, the original liquidation was considered final and accepted in accordance with the provisions of section 1371 of the Administrative Code, and conclusive against the petitioner, being free of all the errors provided for in section 1300 of that Code.

And being thus conclusive, the liquidation can no longer be altered by the Collector of Customs; not even under section 1369 of said Code, which is inapplicable here, because it cannot neutralize or render nugatory the express provisions of another section of the same Code, that is, section 1371 mentioned above, which applies to cases which the law considers to have been finally and conclusively terminated. It should be noted that section 1369 refers to cases pending, i. e., to cases not finally decided. Neither may it be said that the original liquidation was only tentative, for the respondent alleges (paragraph III of the answer) and it is not denied by the petitioner, that the entry in question is not stamped "Tentative liquidation" as expressly required by the law. (Section 1285, Adm. Code.)

Finally, with regard to the equitable aspect of the case. we agree with the Attorney-General in his observations made in his memorandum for the respondent, which reads as follows:

"Is it inequitable to permit the Insular Government in this case to retain the amounts paid by the petitioner in excess of what should have been paid by him? At first blush, the case for the petitioner seems to be sustained by equity and fair dealing. But a careful and impartial estimate of the situation will disclose that equity and justice are also, in favor of the Government. At the time the said goods were entered and the liquidations were made, the Collector of Customs and the petitioner could not and did not know the actual official rates of exchange on the dates of exportation. (See p. 6, memorandum of petitioner.) The Collector of Customs of Davao knew the proclaimed rate and applied it. The official rates of exchange on the date of exportation could have been higher or lower than the rate applied by the said Collector of Customs. If they had been higher, the

Government would have collected less than the true amount due; if lower, the importer would have paid more. If the importer, petitioner here, did not want to lose by reason of the application of higher rates, it should have filed a protest. But if it filed a protest and it subsequently appeared that such official rates of exchange on exportation were higher than those applied by the Collector of Customs of Davao, it could have been required to pay additional customs dues. In this case it did not file a protest. So that if it had turned out that the rates applied by the Davao Collector were lower than the rates on dates of exportation, the petitioner could not be compelled to pay additional dues. But upon knowing that the rates of exchange applied by the Davao Collector of Customs were higher than the official rates on the dates of exportation, it seeks to recover the difference. In other words, the petitioner did not want to take the risk of being compelled to pay additional customs duties (did not protest) but now would like to take advantage of the difference in rates in spite of its own failure to protest. If the petitioner were allowed to recover notwithstanding its failure to protest, the effect would be to sanction a procedure that places the Government on an unequal footing with the importer. The importer in this case was unwilling to, and did not, assume the risk of being required to pay additional customs dues,—that is why it did not protest, thus virtually electing to accept the proclaimed rates applied by the Collector of Customs of Davao. Therefore, it has no ground to complain if the rate so applied proved to be higher, just as the Government would have no ground to complain had the rates applied proved to be lower than the official rates on the dates of exportation." (Folios 49, 60 and 51, Rollo.)

Finding no merit in the complaint, the writ is denied, with costs against the petitioner. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villmor, Villa-Real, and Imperial, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.