

COMMISSIONER OF CUSTOMS, PETITIONER, VS. COURT OF TAX APPEALS AND CAMPOS RUEDA CORPORATION, RESPONDENTS.

G.R. No. 70648. July 31, 1987

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Petitioner Commissioner of Customs seeks a reversal of the Decision of respondent Court of Tax Appeals* in CTA Case No. 2830 entitled "Campos Rueda Corporation, Petitioner, vs. The Hon. Commissioner of Customs, Respondent" wherein respondent Court ordered petitioner to refund to private respondent Campos Rueda Corporation the customs duties the latter had overpaid on three of its importations.

The essential facts are not in controversy, the main issue being one of law.

1) Campos Rueda Corporation (Respondent Company, for short), ordered tungsol flashers from the United States. One shipment, worth \$10,812.20, arrived in Manila on November 1, 1973 for which it filed the corresponding Import Entry.

Another shipment of the same article, worth \$18,220.10, arrived in Manila on February 12, 1974 with Respondent Company again filing the necessary Import Entry.

The invoice and declared unit price was \$0.66 for the two importations. However, the Bureau of Customs re-appraised the two shipments at the rate of \$1.08 per piece based on an "Alert Notice" sent by Finance Attaches abroad. Respondent Company paid the increased taxes and duties amounting to P18,591.00 and P52,226.00 for the respective shipments, but filed Manila Protests Nos. 9274 and 9275 claiming a refund of said amounts.

2) Respondent Company also ordered sealed beams from the United States. The merchandise worth \$18,964.54 arrived in Manila on March 31, 1974 for which the corresponding Import Entry was filed. The invoice price of the merchandise was \$0.908 per piece but the Collector of Customs of Manila re-appraised it to \$1.35 a piece based on an "Alert Notice" received from Finance Attaches abroad. Again, Respondent Company paid the increased duties and taxes amounting to P67,525.00 but filed at the same time Manila Protest No. 9287 for refund of the excess paid.

From the denial of the Protests by the Collector of Customs, Respondent Company appealed to the Commissioner of Customs, which affirmed in toto the consolidated Decision appealed from on the ground that "Alert Notices are sent by Finance Attaches in their official capacity as such officials, aware of their bounden duty to keep the Department of Finance abreast with the current prices of commodities for the imposition of correct amount of duties and taxes on taxable importations."

Respondent Company elevated the case to respondent Court of Tax Appeals which, on March 19, 1985, rendered judgment finding that petitioner had violated Section 201 of the Tariff and Customs Code, and ruling:

"As to petitioner's claim for tax refund, the same cannot be passed upon by the Court because there is nothing in the records to show that petitioner had filed its written claim for refund thereof with the Commissioner of

Internal Revenue and that the latter was made a party to this case.

" x x x

"In view of the foregoing, and since there is no controversy between the parties as to the computation of the customs duties sought to be refunded, only that amount of overpaid customs duties should be refundable to petitioner.

"Wherefore, the appealed decision is modified. Respondent is hereby ordered to grant the refund of overpaid customs duties to petitioner Campos Rueda Corporation. Without pronouncement as to costs.

"SO ORDERED."

Hence, petitioner's recourse to this instance.

The issue posed is whether or not the re-appraisal made by the Commissioner of Customs was in accordance with Section 201 of the Tariff and Customs Code of the Philippines (RA No. 1937), as amended by PD Nos. 34 and 1464.

Section 201 of the Tariff and Customs Code reads:

"Section 201. Basis of Dutiable Value - The dutiable value of an imported article subject to an ad valorem rate of duty shall be based on the home consumption value or price (excluding internal excise taxes) of same, like or similar articles, as bought and sold or offered for sale freely in the usual wholesale quantities in the ordinary course of trade, in the principal markets of the country from where exported on the date of exportation to the Philippines, or where there is none on such date, then on the home consumption value or price nearest to the date of exportation including the value of all containers, coverings and/or packings of any kind and all other costs, charges and expenses incident to placing the article in a condition ready for shipment to the Philippines, plus ten (10) per cent of such home consumption value or price.

"The home consumption value or price under this section shall be the value or price declared in the consular, commercial, trade or sales invoice. Where there exists a reasonable doubt as to the value or price of the imported article declared in the entry, the correct dutiable value of the article shall be ascertained from the reports of the Revenue Attache or Commercial Attache (Foreign Trade Promotion Attache) pursuant to Republic Act Numbered Fifty-four hundred and sixty-six or other Philippine diplomatic officers and from such other information that may be available to the Bureau of Customs.

"From the data thus gathered, the Commissioner of Customs shall ascertain and establish the home consumption values of articles exported to the Philippines and shall publish such lists of values from time to time.

"When the dutiable value provided for in the preceding paragraphs cannot be ascertained for failure of the importer to produce the documents mentioned in the second paragraph, or where there exists a reasonable doubt as to dutiable value of the imported article declared in the entry, it shall be the domestic wholesale selling price of such or similar article in Manila or other principal markets in the Philippines on the date the duty becomes payable on the article under appraisement, in the usual wholesale quantities and in the ordinary course of trade, minus –

"(a) Twenty (20) per cent thereof for expenses and profits; and

"(b) Duties and taxes paid thereon."

Clearly, the dutiable value of an imported article is based on the home consumption value or price as declared in the consular, commercial, trade or sales invoice. But where there is a reasonable doubt, the correct dutiable value shall be ascertained from the reports of the Revenue Attache or Commercial Attache and from such other

information that may be available to the Bureau of Customs. Also required by the statute is the publication from time to time of the lists of the home consumption values.

In the corresponding Import Entries, Respondent Company quoted the prices of the imported merchandise as declared in the consular invoices and as required by Section 201. Reasonable doubt regarding the declarations was not shown to have existed such that recourse to reports from commercial attaches or other information became necessary. Neither was there compliance with the requirement in Section 201 regarding publication of the lists of dutiable values of imported articles from time to time. The re-appraisal made by the Bureau of Customs was based on "Alert Notices" received from Finance Attaches abroad, which, however, were not disclosed, neither to Respondent Company nor to respondent Court. As respondent Court had bewailed:

"In the case at bar, it is worthy to state that the respondent's re-appraisal of the subject shipments or articles imported were based on the alleged piece of document known as "Alert Notice" which was not even presented by respondent to the Court. At any rate, assuming that there really is such a document and the same was received by the Commissioner of Customs, the fact is that the records do not show from what data the alleged alerted value was taken, and how the Commissioner of Customs ascertained and established the home consumption value of the imported articles and/or merchandise and when and where such alerted value was published as required by law. Under these circumstances, the re-appraisal made by respondent is clearly not in accordance with the provisions of Section 201 of the Tariff and Customs Code".

While it is true that appraisers of the Bureau of Customs are given ample leeway in determining the correct customs duties under Section 1405 of the Tariff and Customs Code[1], Section 201 of the same Code, which prescribes the criteria for the determination of the dutiable values of imported articles, has not been complied with. What is more, administrative proceedings are not exempt from the operation of due process requirements one of which is that a finding by an administrative tribunal should be supported by substantial evidence presented at the hearing or at least contained in the records or disclosed to the parties affected.[2] In this case the "Alert Notices" on which petitioner based its re-appraisal were not disclosed during the proceedings before the Bureau of Customs nor presented in evidence before respondent Court. The re-appraisal made by petitioner, therefore, can be faulted with arbitrariness in disregard of the standard of due process to which all governmental action should conform to impress upon it the stamp of validity.

WHEREFORE, the Petition for Review on Certiorari is denied, and the appealed judgment is hereby affirmed. No costs.

SO ORDERED.

Yap, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

* Penned by Associate Judge Constante C. Roaquin and concurred in by Presiding Judge Amante Filler and Associate Judge Alex Z. Reyes.

[1] "Sec. 1405. Proceedings and Report of Appraisers.- Appraisers shall, by all reasonable ways and means, ascertain, estimate and determine the value or price of the articles as required by law, any invoice or affidavit thereto or statement of cost, or of cost of production to the contrary notwithstanding, and after revising and correcting the reports of the examiners as they may judge proper, shall report in writing on the face of the entry the value so determined, irrespective of whether such value is equal, higher or lower than the invoice and/or entered value of the articles.

x x x "

[2] Air Manila, Inc. vs. Balatbat, L-29064, April 29, 1971, 38 SCRA 489-90.

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