

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

✓ WALTER SIGRIED MUNCH,
Petitioner,

- versus -

C.T.A. CASE NO. 3784

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - x

5/15/85

D E C I S I O N

Petitioner seeks to vacate the respondent Commissioner of Customs' decision in Customs Case No. 83-3 dated March 23, 1984, forfeiting in favor of the Government an importation of two (2) units radio transceiver, two (2) pieces adaptor and two (2) pieces antennae, found violative of the Customs laws.

The records show that the petitioner is a permanent resident alien in the Philippines; that sometime on February 20, 1982 he brought into the Philippines from Hongkong the above-mentioned articles as part of his personal effects thru the Manila International Airport (MIA) Customhouse; that the District Collector of Customs thereat withheld release and instituted seizure proceedings against the same as prohibited importation under Letter of Instruction No. 13-A dated September 29, 1972 and therefore subject to forfeiture under the pertinent provision of Section 2530(f) of the Tariff and Customs

Code; that the importation was accordingly decreed forfeited in Seizure Identification No. 4810-82 dated November 10, 1982 as subsequently affirmed by the Commissioner of Customs in his decision, supra:

By and large, petitioner would have the reexportation of the equipment by having the decree of forfeiture reconsidered and reversed nestled on such justification, viz.: 1) good faith and lack of fraudulent intent and knowledge of the prohibition, and 2) the office of the National Telecommunication Commission interposes no objection to the re-exportation of the same.

The basic question is nothing more than the effective application and enforcement of the pertinent provision of the Customs laws brought to bear upon the circumstances of the case before Us.

We are less impressed by what petitioner alleges than what he failed compliance. It is hardly necessary to observe that petitioner points to no irregularity nor error of relevance and competence required to bash that patina of legality over the Customs' Order of forfeiture. The proffered good faith and disclaimer to any knowledge of the law can no longer be a prospect that can easily be reconciled with the intended imperative. The equipment sought to be entered has fallen short of measuring up to the compelling import and force of the

rule. The desired relief must, as it did, end in a note of ineffectuality.

Moreover, we are not to confuse the circumstances as they might be but as they actually were at the time of entry nor be misled on what petitioner expects for himself by way of entitlement but what he should expect from an importation effected or attempted contrary to law. The Presidential instruction provides, inter alia, "confiscate all radio transmitters or transceivers not duly registered" (LOI No. 13-A), and as amplified, the regulatory authority directs, "as a matter of policy, we are not disposed to giving any permit to purchase/possess or license for installation and operation of said sets" and "such equipment that are being brought into the country and passing thru the Customs be confiscated and forfeited in favor of the Government if they are not covered by a duly issued and valid permit to purchase/possess from this Commission." (Letter of the Commissioner of the National Telecommunication Commission to the Collector of Customs, MIA, July 23, 1982). The articles are within that class of merchandise "the importation of which is effected or attempted contrary to law" subject to forfeiture under Section 2530(f) of the Tariff and Customs Code. Indeed, there can be no further occasion to speculate upon how the statute should be enforced.

It is of no consequence whatsoever whether the importation was made in good faith by disclaiming knowledge of the existing legal constraint. It adds no insulating panacea; otherwise by one's own wrong the law can be flouted with impunity. We are not therefore prepared to attach any importance to this claim at "self-exoneration." It was not propitious then, it cannot, now. The apparent short-order-whipped-up acquiescence of the Commissioner of the National Telecommunication Commission for the re-exportation of the forfeited property seems more generous than candid. Such could be a clumsy attempt of defusing a peremptory irresistible legal sanction. It would have stretched too far the effective range of authority. And, that is neither here nor there. Such a luxuriance of an expediency cannot be our "cup of tea", so to speak. As aptly stated by the respondent Commissioner of Customs, "The re-exportation of the transceivers in question cannot be allowed inasmuch as intent to import has already been shown by the evidence, notwithstanding the fact that the NTC interposes no objection to their re-exportation." Let it suffice that "The Bureau of Customs acquires exclusive jurisdiction over imported goods for the purpose of enforcement of the Customs laws from the moment the goods are actually in its possession or control." (Ponce Enrile v. Vinuya, 37 SCRA 381; Collector

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of Customs v. Torres, 45 SCRA 272; Virata v. Aquino 53 SCRA 24). And, "The Collector of Customs when sitting in forfeiture proceedings, constitutes a tribunal upon which the law confers jurisdiction to determine all questions touching the forfeiture and further disposition of the illegally imported merchandise." (Auyong Hian v. Court of Tax Appeals, 59 SCRA). Short of uncritical leniency we cannot say that any different conclusion ought to follow but to apply the law as we find it.

Upon the records before Us there is nothing to take the case out of the operative effects of the statutory proscription as understood and applied. "The law must be obeyed. It is not enough that it may seem to us to be impolitic or even oppressive. It is not enough that in its making, great historical traditions of generosity have been ignored. Our duty is done when we ascertain that it has kept within its power." (People v. Crane, 214 NY 154).

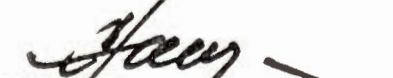
So it appears that was no error in the decision appealed from and the same is affirmed and it is so ordered.

Quezon City, Metro Manila, May 15, 1985.


ALEX Z. REYES
Associate Judge

WE CONCUR:


AMANTE FILLER
Presiding Judge


CONSTANTE C. ROAQUIN
Associate Judge