610 Phil. 419

SECOND DIVISION

[G.R. No. 156946, July 15, 2009]

SECRETARY OF FINANCE, PETITIONER, VS. ORO MAURA SHIPPING LINES, RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve the petition[1] filed by the Secretary of Finance (*petitioner*), assailing the Decision dated August 26, 2002,[2] and Resolution dated January 20, 2003[3] of the Court of Appeals (*CA*) in CA-G.R. SP No. 64644. The CA affirmed the decision[4] dated March 29, 2001 of the Court of Tax Appeals (*CTA*) holding that the assessment made by the Customs Collector of the Port of Manila on respondent Oro Maura Shipping Lines' (*respondent*) vessel M/V "HARUNA" had become final and conclusive upon all parties, and could no longer be subject to re-assessment.

FACTUAL ANTECEDENTS

On November 24, 1992, the Maritime Industry Authority (*MARINA*) authorized the importation of one (1) unit vessel M/V "HARUNA"; ex: Shin Shu Maru No. 8, under a Bareboat Charter, for a period of five (5) years from its actual delivery to the charterer. The original parties to the bareboat charter agreement were Haruna Maritime S.A., represented by Mr. Yoji Morinaga of Panama, and Mr. Guerrero G. Dajao, proprietor and manager of Glory Shipping Lines, the charterer.

On December 29, 1992, the Department of Finance (*DOF*), in its 1st Indorsement, allowed the temporary registration of the M/V "HARUNA" and its **tax and duty-free release** to Glory Shipping Lines, subject to the conditions imposed by MARINA. The Bureau of Customs (*BOC*) also required Glory Shipping Lines to post a bond in the amount equal to 150% of the duties, taxes and other charges due on the importation, conditioned on the re-exportation of the vessel upon termination of the charter period, but in no case to extend beyond the year 1999.

On March 16, 1993, **Glory Shipping Lines posted Ordinary Re-Export Bond No. C(9) 121818 for P1,952,000.00,** conditioned on the re-export of the vessel within a period of one (1) year from March 22, 1993, or, in case of default, to pay customs duty, tax and other

charges on the importation of the vessel in the amount of P1,296,710.00.

On March 22, 1993, the M/V "HARUNA" arrived at the Port of Mactan. Its Import Entry No. 120-93 indicated the vessel's dutiable value to be P6,171,092.00 and its estimated customs duty to be P1,296,710.00.

On March 22, 1994, **Glory Shipping Lines' re-export bond expired**. Almost two (2) months after, or on May 10, 1994, **Glory Shipping Lines sent a Letter of Guarantee** to the Collector guaranteeing to renew the Re-Export Bond on vessel M/V "HARUNA" on or before May 20, 1994; otherwise, it would pay the duties and taxes on said vessel. **Glory Shipping Lines never complied with its Letter of Guarantee; neither did it pay the duties and taxes and other charges due on the vessel despite repeated demands made by the Collector of the Port of Mactan.**

Since the re-export bond was not renewed, the Collector of the Port of Mactan assessed it customs duties and other charges amounting to P1,952,000.00; thereafter, it sent Glory Shipping Lines several demand letters dated April 22, 1996, June 21, 1996, and March 10, 1997, respectively. **Glory Shipping Lines failed to pay the assessed duties despite receipt of these demand letters.**

Unknown to the Collector of the Port of Mactan, Glory Shipping Lines had already offered to sell the vessel M/V "HARUNA" to the respondent in October 1994. In fact, the respondent already applied for an Authority to Import the vessel with MARINA on October 21, 1994, pegging the proposed acquisition cost of the vessel at P1,100,000.00. MARINA granted this request through a letter dated December 5, 1994, after finding that the proposed acquisition cost of the vessel reasonable, taking into consideration the vessel's depreciation due to wear and tear.

On December 2, 1994, Haruna Maritime S.A. and Glory Shipping Lines sold the M/V "HARUNA" to the respondent without informing or notifying the Collector of the Port of Mactan.

On December 13, 1994, Kariton and Company (*Kariton*), representing the respondent, inquired with the DOF if it could pay the duties and taxes due on the vessel, with the information that the vessel was acquired by Glory Shipping Lines through a bareboat charter and was previously authorized by the DOF to be released under a re-export bond. The DOF referred Kariton's letter to the Commissioner of Customs for appropriate action, per a 1st Indorsement dated December 13, 1994. In turn, the Commissioner of Customs, in a 2nd Indorsement dated December 14, 1994, referred the DOF's 1st Indorsement to the Collector of Customs of the Port of Manila.

On the basis of these indorsements and the MARINA appraisal, Kariton filed Import Entry No. 179260 at the Port of Manila on behalf of the respondent. The Collector of the Port of Manila accepted the declared value of the vessel at P1,100,000.00 and assessed duties and taxes amounting to P149,989.00, which the respondent duly paid on January 4, 1995, as

evidenced by Bureau of Customs Official Receipt No. 50245666.

On November 5, 1997, after discovering that the vessel M/V "HARUNA" had been sold to the respondent, the Collector of the Port of Mactan sent the respondent a demand letter for the unpaid customs duties and charges of Glory Shipping Lines. When the respondent failed to pay, the Collector of the Port of Mactan instituted seizure proceedings against the vessel M/V "HARUNA" for violation of Section 2530, par. 1, subpar. (1) to (5) of the Tariff and Customs Code of the Philippines (*TCCP*).

In his September 1998 Decision,[5] the Collector of the Port of Mactan ordered the forfeiture of the vessel in favor of the Government, after finding that both Glory Shipping Lines and the respondent acted fraudulently in the transaction.

The Cebu District Collector, acting on the respondent's appeal, reversed the decision of the Collector of the Port of Mactan in his December 1, 1998 decision, concluding that while there appeared to be fraud in the sale of the vessel M/V "HARUNA" by Haruna Maritime S.A. and Glory Shipping Lines to the respondent, there was no proof that the respondent was a party to the fraud.[6] Moreover, the Cebu District Collector gave weight to MARINA's appraisal of the dutiable value of the vessel. The decision also held that in light of this appraisal that the Collector of Custom of the Port of Manila used as basis for his assessment, the customs duty the Collector of the Port of Manila imposed was unquestionably proper.

On December 14, 1998, the Commissioner of Customs, in a 3rd Indorsement,[7] affirmed the decision of the Cebu District Collector and recommended his approval to the petitioner.

In a 4th Indorsement dated January 8, 1999,[8] the petitioner affirmed the Commissioner's recommendation, but ordered a re-assessment of the vessel based on the entered value, without allowance for depreciation. The respondent filed a motion for reconsideration, which the petitioner denied.

On May 15, 2000, the respondent filed a Petition for Review with the CTA,[9] assailing the petitioner's January 8, 1999 decision. In a decision dated March 29, 2001, the CTA granted the respondent's petition and set aside the petitioner's 4th Indorsement, thus affirming the previous decision of the Commissioner of Customs.[10]

Dissatisfied with this outcome, the petitioner sought its review through a petition filed with the CA; he claimed that the CTA erred when it held that the petitioner no longer had authority to order the re-assessment of the vessel. [11]

The CA affirmed the findings of the CTA in its decision dated August 26, 2002.[12] The appellate court concluded that the assessment made by the Collector of the Port of Manila had already become final and conclusive on all parties, pursuant to Sections 1407 and 1603

of the TCCP; the respondent paid the assessed duties on January 4, 1995, while the Collector of the Port of Mactan demanded payment of additional duties and taxes only on November 5, 1997, or more than one year from the time the respondent paid. The CA also upheld the findings of the Cebu District Collector, of the Commissioner of Customs, and of the CTA that the fraud in this case could not be imputed to the respondent since it was not shown that the respondent knew about Glory Shipping Lines' infractions.

The CA subsequently denied petitioner's Motion for Reconsideration in its resolution of January 20, 2003.[13] Hence, this petition.

THE PETITION

The petitioner submits three issues for our resolution:

I

WHETHER THE COURT OF APPEALS ERRED IN HOLDING THAT THE ASSESSMENT MADE BY THE MANILA CUSTOMS COLLECTOR ON THE SUBJECT VESSEL HAD BECOME FINAL AND CONCLUSIVE UPON ALL PARTIES.

II

WHETHER THE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENT WAS AN "INNOCENT PURCHASER."

III

WHETHER THE COURT OF APPEALS ERRED IN NOT HOLDING THAT A LIEN IN FAVOR OF THE GOVERNMENT AND AGAINST THE VESSEL EXISTS.

The petitioner mainly argues that the CA committed a reversible error when it held that the assessment of the Customs Collector of the Port of Manila had become final and conclusive on all parties pursuant to Sections 1407 and 1603 of the TCCP. According to the petitioner, these provisions cannot limit the authority of the Secretary of Finance or the Commissioner of Customs to assess or collect deficiency duties; in the exercise of their supervisory powers, the Commissioner and the Secretary may at any time direct the re-assessment of dutiable articles and order the collection of deficiency duties. Even assuming that Sections 1407 and 1603 of the TCCP apply to the present case, the petitioner posits

that the one-year limitation[14] set forth in these provisions presupposes that the return and all entries, as passed upon and approved by the Collector, reflect the accurate description and value of the imported article. Where the article was misdeclared or undervalued, the statute of limitations does not begin to run until a deficiency assessment has been issued and settled in full. Lastly, the petitioner claims that the respondent, being a direct and actual party to the importation, should have ensured that the imported article was properly declared and assessed the correct duties.

The respondent, on the other hand, claims that the appraisal of the Collector can only be altered or modified within a year from payment of duties, per Sections 1407 and 1603 of the TCCP; it is only when there is fraud or protest or when the import entry was merely tentative that settlement of duties will not attain finality. The petitioner's allegation that there was misdeclaration or undervaluation of the vessel is not supported by the evidence and is contrary to the findings of the District Collector of the Port of Cebu, which the petitioner himself affirmed in his 4th Indorsement dated January 8, 1999. Moreover, the records show that the value of the vessel was properly declared by the respondent at P1,100,000.00, pursuant to the appraisal of the MARINA.

The core legal issue for our resolution is whether the Secretary of Finance can order a re-assessment of the vessel M/V "HARUNA."

THE COURT'S RULING

We find the petition meritorious and rule that the petitioner can order the re-assessment of the vessel M/V "HARUNA."

Procedural Issue

The Collector of the Port of Mactan found that the respondent defrauded the BOC of the proper customs duty, but the District Collector of Cebu held otherwise on appeal and absolved the respondent from any participation in the fraud committed by Glory Shipping Lines. These factual findings and conclusion were affirmed by the Commissioner of Customs, by the CTA and, ultimately, by the CA. Although in agreement with the conclusion, the petitioner, however, ordered a reassessment of the dutiable value of the vessel based on the original entered value, without allowance for depreciation.

Factual findings of the lower courts, when affirmed by the CA, are generally conclusive on the Court.[15] For this reason, the Rules of Court provide that only questions of law may be raised in a petition for review on *certiorari.* We delve into factual issues and act on the lower courts' factual findings only in exceptional circumstances, such as when these findings

contain palpable errors or are attended by arbitrariness.[16]

After a review of the records of the present case, we find that the CTA and the CA

overlooked and misinterpreted factual circumstances that, had they been brought to light and properly considered, would have changed the outcome of this case. **In particular, a closer scrutiny of the surrounding circumstances of the case and the respondent's actions reveal the existence of fraud that deprived the State of the customs duties properly due to it.**

A Critical Look at the Facts

Our examination of the facts tells us that there are four significant phases that should be considered in appreciating the present case.

The **first phase** is the original tax and duty-free entry of the MV Haruna when Glory Shipping Lines filed Import Entry No. 120-93 with the Collector of the Port of Mactan on March 22, 1993. The vessel then had a **declared dutiable value of P6,171,092.00 and the estimated customs duty was P1,296,710.00.** It was allowed conditional entry on the basis of a one-year re-export bond that lapsed and was not renewed. Despite a letter of guarantee subsequently issued by Glory Shipping Lines and repeated demand letters, no customs duties and charges were paid. The vessel remained in the Philippines.

The **second significant phase** occurred when Glory Shipping Lines offered to sell the vessel to the respondent in October 1994. At that point, the respondent applied for an Authority to Import the vessel, based on the proposed acquisition cost of P1,100,000.00. MARINA granted the request based on the proposed acquisition cost, taking depreciation into account.

From the first to the second phase, **bad faith already intervened** as Glory Shipping Lines, instead of paying in accordance with its commitment, simply turned around, disregarded the demand letters of the Collector of the Port of Mactan, and offered the vessel for sale to the respondent.

The respondent, for its part, already knew of the status of the vessel (as it in fact subsequently manifested before the DOF); in fact, what it asked for was an authority to import, although the vessel was already in the Philippines. The respondent likewise was the party which secured an appraisal from MARINA knowing fully well of the vessel's value based on its previous history. It also joined Glory Shipping Lines in the latter's attempt to evade the payment of the customs duties and charges demanded by the Collector of the Port of Mactan by pushing through with the purchase of the vessel **without any notification to the Collector of the Port of Mactan** - the Port that first administratively enforced the rules on the vessel's importation resulting in its tax-free entry and conditional release.

The **third phase** came when the respondent's representative asked the DOF if it could pay the duties and taxes due on the vessel, knowing fully well the vessel's history of entry into the country. The respondent's declared value in the request was P1.1 Million based on the lower appraisal that it secured from MARINA. The DOF referred the matter to the

Commissioner of Customs who in turn made his own referral to the Collector of Customs of the Port of Manila. It was the Collector of the Port of Manila who accepted the declared value of P1.1 Million and assessed duties and taxes amounting to P149,989.00. The respondent thus paid the customs duties as approved by the Collector of the Port of Manila. **As in the second phase, no notice was given in this third phase to the Port of Mactan as the Port that allowed the entry of the vessel into the country and which had existing demand letters for the customs duties and charges due on the vessel.**

The **fourth phase** started on November 5, 1997 when the Collector of the Port of Mactan acted after learning of the sale of the vessel to the respondent. The Collector eventually instituted seizure proceedings that led to the petition currently with us.

Evidence of Fraud

The tie-up between Glory Shipping Lines and the respondent in the four phases identified above can better be appreciated if the surrounding facts are considered.

An undisputed given in the narration of the four phases is the valuation of P6,171,092.00 that Glory Shipping Lines gave when the vessel first entered the country under Import Permit No. 120-93 on March 22, 1993. When the respondent made its request with the MARINA for authorization to import the same vessel after *a span of only 19 months*, the respondent proposed an acquisition cost of only P1,100,000.00. Consistent with this proposal, the respondent, through Kariton, gave the vessel the same declared value in its own Import Entry No. 179260 filed with the Collector of the Port of Manila. **Thus, in a little over a year and a half, the declared value of the vessel decreased by P5,000,000.00, or an astonishing 80% of its original price.** We find this drop in value within a short period of 19 months to be too fantastic to be accepted without question, even allowing for depreciation. Equally fantastic is the change in the customs duties, taxes and other charges due which fell **from P1,296,710.00 in March 1993 to P149,989.00 in January 1995**, all because of the sale, the new application by the vendee, and the change in the Port where the assessment and collection were made.

The drop alone from the undisputed original entry valuation of P6,171,092.00 to the respondent's new valuation of P1,100,000.00 (or a decrease of 80% from the original valuation) is already a *prima facie* evidence of fraud that the rulings below did not properly appreciate simply because they disregarded the records of the original entry of the vessel through the Port of Mactan. Section 2503 of the TCCP provides in this regard that:

> Section 2503. *Undervaluation, Misclassification and Misdeclaration of Entry.* - When the dutiable value of the imported articles shall be so declared and entered that the duties, based on the declaration of the importer on the face of the entry, would be less by ten percent (10%) than should be legally collected, or when the imported articles shall be so described and entered that the duties based on the importer's description on the face of the entry would be less by ten

> percent (10%) than should be legally collected based on the tariff classification, or when the dutiable weight, measurement or quantity of imported articles is found upon examination to exceed by ten percent (10%) or more than the entered weight, measurement or quantity, a surcharge shall be collected from the importer in an amount of not less than the difference between the full duty and the estimated duty based upon the declaration of the importer, nor more than twice of such difference: *Provided,* That **an undervaluation,** misdeclaration in weight, measurement or quantity **of more than thirty percent (30%) between the value, weight, measurement, or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a *prima facie* evidence of fraud penalized under Section 2530 of this Code:** *Provided, further,* That any misdeclared or underdeclared imported articles/items found upon examination shall ipso facto be forfeited in favor of the Government to be disposed of pursuant to the provision of this Code.
>
> When the undervaluation, misdescription, misclassification or misdeclaration in the import entry is intentional, the importer shall be subject to the penal provision under Section 3602 of this Code. [Emphasis supplied.]

The 80% drop in valuation existing in this case renders the consideration and application of Section 2503 unavoidable.

Significantly, the respondent never explained the considerable disparity between the dutiable value declared by Glory Shipping Lines and the dutiable value it declared - difference of P5,000,000.00 - so as to overturn or contradict this *prima facie* finding of fraud. We note that the exercise of due diligence alone would have alerted it to Glory Shipping Lines' acquisition cost and the vessel's declared value at its first entry. The respondent, being in the shipping business, should have known the standard prices of vessels and that the value it proposed to MARINA, as described in the second phase above, is extraordinarily low compared to the vessel's originally declared valuation. All these strengthen, rather than weaken, the *prima facie* evidence of fraud that the law dictates when an unconscionable disparity of valuations exists.

Depreciation not factor in determining dutiable value

Neither can the respondent hide behind the excuse that the vessel's dutiable value at P1,100,000.00 was approved by MARINA *via* the Authority to Import, taking into consideration the vessel's depreciation brought about by its ordinary wear and tear. In the first place, we observe that **nowhere in the TCCP does it state that the depreciated value of an imported item can be used as the basis to determine an imported item's dutiable value.** Section 201 of P.D. No. 1464 (the Tariff and Customs Code of 1978)[17] in this regard provides:

Sec. 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 **cost(fair market value) 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 exporting country on the date of exportation to the Philippines (excluding internal excise taxes to be remitted or rebated) or where there is none on such date, then on the **cost (fair market value) nearest to the date of exportation,** including the value of all container, covering and/or packings of any kind and all other expenses, costs and charges incident to placing the article in a condition ready for shipment to the Philippines, and freight as well as insurance premium covering the transportation of such articles to the port of entry in the Philippines.

Where the fair market value or price of the article cannot be ascertained thereat or where there exists a reasonable doubt as to the fairness of such value or price, then the **fair market value or price in the principal market in the country of manufacture or origin**, if it is not the country of exportation, or in a third country with the same stage of economic development as the country of exportation shall be used.

When the dutiable value of the article cannot be ascertained in accordance with the preceding paragraphs or where there exists a reasonable doubt as to the cost (fair market value) of the imported article declared in the entry, **the correct dutiable value of the article shall be ascertainedby the Commissioner Of Customs from the reports of the Revenue or Commercial Attache (Foreign Trade Promotion Attache),** pursuant to Republic Act Numbered Fifty-four Hundred and Sixty-six or other Philippine diplomatic officers or Customs Attaches and from such other information that may be available to the Bureau of Customs. Such values shall be published by the Commissioner of Customs from time to time.

When the dutiable value cannot be ascertained as provided in the preceding paragraphs, or where there exists a reasonable doubt as to the dutiable value of the imported article declared in the entry, it shall be **domestic wholesale selling price of such or similar article in Manila or other principal markets in the Philippines** or on the date the duty become payable on the article under appraisement, on the usual wholesale quantities and in the ordinary course of trade, minus:

> (a)not more than twenty-five (25) per cent thereof for expenses and profits; and
>
> (b)duties and taxes paid thereon.*(as amended by E.O. 156)* [Emphasis supplied.]

Even assuming that the depreciated value of the vessel can be considered in determining the vessel's dutiable value, still, we find that the decrease of 80% from the original price after the passage of only 19 months cannot be believed and thus should not be accepted.

Assuming further that MARINA merely committed a mistake in approving the vessel's proposed acquisition cost at P1,100,000.00, and that the Collector of the Port of Manila similarly erred, we reiterate the legal principle that estoppel generally finds no application against the State when it acts to rectify mistakes, errors,[18] irregularities, or illegal acts,[19] of its officials and agents, irrespective of rank. This ensures efficient conduct of the affairs of the State without any hindrance on the part of the government from implementing laws and regulations, despite prior mistakes or even illegal acts of its agents shackling government operations and allowing others, some by malice, to profit from official error or misbehavior. **The rule holds true even if the rectification prejudices parties who had meanwhile received benefits.**[20]

This principle is particularly true when it comes to the collection of taxes. As we stated in *Intra-Strata Assurance Corporation v. Republic of the Philippines*:[21]

> It has long been a settled rule that the government is not bound by the errors committed by its agents. Estoppel does not also lie against the government or any of its agencies arising from unauthorized or illegal acts of public officers.[22] **This is particularly true in the collection of legitimate taxes due where the collection has to be made whether or not there is error, complicity, or plain neglect on the part of the collecting agents**.[23] In *CIR v. CTA,* we pointedly said:
>
> > It is axiomatic that the government cannot and must not be estopped particularly in matters involving taxes. Taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents. **Thus, it should be collected without unnecessary hindrance or delay.** [Emphasis supplied.]

The Respondent's Complicity

That the respondent fully participated in moves to defraud the BOC, as shown by the recital of the four phases above, is further supported by another factual circumstance - the respondent's acknowledgment to the DOF that the vessel M/V "HARUNA" conditionally entered the country under a re-export bond filed with the BOC. This is plain from the 1st Indorsement of the DOF dated December 13, 1994, which states:

1st Indorsement
December 13, 1994

> Respectfully forwarded to the Commissioner of Customs, Manila, for appropriate action, the herein letter of even date of Kariton & Company, requesting in behalf of their client, ORO MAURA SHIPPING LINE to pay the corresponding duties and taxes due on the vessel MV "HARUNA" (ex. Shinsu Maru No. 8) which was acquired by Glory Shipping Lines thru bareboat charter under P.D. No. 760, as amended and previously **authorized by this Department to be released under a re-export bond** pursuant to Section 1 of P.D. No. 1711 amending P.D. No. 760 under our 1st Indorsement dated December 29, 1992, copy attached, subject to pertinent import laws, rules and regulations.

With the knowledge that the vessel was released under a re-export bond, the respondent should have known that this original entry was subject to specific conditions, among them, the obligation to guarantee the re-export of the vessel within a given period, or otherwise to pay the customs duties on the vessel. It should have known, too, of the conditions of the vessel's release under the re-export bond and of the state of Glory Shipping Lines' status of compliance.

There was an original but incomplete importation by Glory Shipping Lines that the respondent could not have simply disregarded proceeds from knowledge of the vessel's history and the application of the relevant law. In this respect, Section 1202 of the TCCP provides:

> Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. **Importation is deemed terminated upon payment of the duties, taxes and other charges due upon the articles**, or secured to be paid, at a port of entry **and the legal permit for withdrawal shall have been granted**, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.

In order for an importation to be deemed terminated, the payment of the duties, taxes, fees and other charges of the item brought into the country must be in full. For as long as the importation has not been completed, the imported item remains under the jurisdiction of the BOC.[24] From the perspective of process, the importation that originally started with Glory Shipping Lines was therefore never completed and terminated, so that the respondent's present importation is merely a continuation of that original process.

Saddled with knowledge of the underlying facts that preceded its purchase, the conclusion that the respondent fully cooperated with Glory Shipping Lines in avoiding the original charges and duties due is unavoidable; the respondent provided the medium (1) to disregard the original duties due on the vessel's first entry; and (2) to avoid the Port of Mactan where demands for payment of overdue custom duties already existed. In the process, it of course acted for its own interest by securing for itself lower dutiable values and lesser duties due. The fact that the respondent did all these confirms that it participated in the moves to defraud the BOC of the legitimate taxes due as originally assessed.

Finality of the Port of Manila Assessment

Our finding of fraud leads us to conclude that the assessment of the Collector of the Port of Manila cannot become final and conclusive pursuant to Section 1603 of the TCCP, which states:

> Section 1603. *Finality of Liquidation*. - When articles have been entered and passed free of duty or final adjustments of duties made, with subsequent delivery, such entry and passage free of duty or settlements of duties will, after the expiration of one (1) year, from the date of the final payment of duties, **in the absence of fraud** or protest or compliance audit pursuant to the provisions of this Code, be final and conclusive upon all parties, unless the liquidation of the import entry was merely tentative.

Nature of a tax lien

An important factual circumstance that the CTA and the CA appear to have completely overlooked is that the vessel first entered the Philippines through the Port of Mactan and it was the Collector of the Port of Mactan who first acquired jurisdiction over the vessel when he approved the vessel's temporary release from the custody of the BOC, after Glory Shipping Lines filed Ordinary Re-Export Bond No. C(9) 121818.

When this re-export bond expired on March 22, 1994, Glory Shipping Lines filed a letter dated May 10, 1994 guaranteeing the renewal of the re-export bond on or before May 20, 1994, otherwise the duties, taxes and other charges on the vessel would be paid. Therefore, when May 20, 1994 came and went without the renewal of the vessel's re-export bond, the obligation to pay customs duties, taxes and other charges on the importation in the amount of P1,296,710.00 arose and attached to the vessel. Undoubtedly, this lien was never paid by Glory Shipping Lines, thus it continued to exist even after the vessel was sold to the respondent. Section 1204 of the TCCP in this regard states:

> Section 1204. *Liability of Importer for Duties*. - Unless relieved by laws or regulations, **the liability for duties, taxes, fees and other charges attaching**

> **on importation** constitutes a personal debt due **from the importer to the government** which can be discharged only by payment in full of all duties, taxes, fees and other charges legally accruing**.** It also **constitutes a lien upon the articles imported** which may be enforced while such articles are in custody or subject to the control of the government.

As defined by Black's Law Dictionary, a lien is a claim or charge on property for payment of some debt, obligation or duty.[25] In this particular instance, the obligation is a tax lien that attaches to imported goods, regardless of ownership.[26]

Consequently, **when the respondent bought the vessel from Glory Shipping Lines on December 2, 1994, the obligation to pay the BOC P1,296,710.00 as customs duties had already attached to the vessel and the non-renewal of the re-export bond made this liability due and demandable. The subsequent transfer of ownership of the vessel from Glory Shipping Lines to the respondent did not extinguish this liability.**

Therefore, while it is true that the respondent had already paid the customs duties assessed by the Collector of the Port of Manila, this payment did not have the effect of extinguishing the lien given the tax lien that had attached to the vessel and the fact that what had been paid was different from what was owed. From the point of amount alone, the customs duties paid to the Collector at the Port of Manila only amounted to P149,989.00, while the lien which had attached to the vessel based on the unpaid assessment by the Collector of the Port of Mactan amounted to P1,296,710.00.

Finally, we deem it necessary to reiterate our pronouncement in ***Chevron Philippines v. Commissioner of the Bureau of Customs,***[27] where we discussed the importance of tariff and customs duties in the following manner:

> Taxes are the lifeblood of the nation. **Tariff and customs duties are taxes constituting a significant portion of the public revenue which enables the government to carry out the functions it has been ordained to perform for the welfare of its constituents.**[28] Hence, their prompt and certain availability is an imperative need[29] and **they must be collected without unnecessary hindrance**.[30] [Emphasis supplied.]

In keeping with this and other cited rulings, we find in favor of the petitioner and uphold his order for the re-assessment of the value of the vessel based on the entered value, which in this case should follow the unpaid assessment made by the Collector of Customs of the Port of Mactan.

WHEREFORE, we **REVERSE** the decision of the Court of Appeals dated August 26,

2002 in CA-G.R. SP No. 64644, and **REINSTATE WITH MODIFICATION** the ruling under former Finance Secretary Edgardo Espiritu's 4th Indorsement dated January 8, 1999. The re-assessment shall be based on the unpaid assessment by the Collector of Customs of the Port of Mactan against respondent Oro Maura Shipping Lines dated November 5, 1997, made on the basis of M/V HARUNA's entered value, without allowance for depreciation, but including other taxes and charges due. Seizure proceedings shall proceed in due course unless the unpaid customs duties, other taxes and charges are duly paid. Costs against the petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, [*]*Chico-Nazario,* and [**]*Leonardo-De Castro, JJ.*, concur.

---

[*] Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658 dated June 3, 2009.

[**] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] For Review on *Certiorari* under Rule 45; *rollo*, pp. 10-24.

[2] Penned by Associate Justice Renato C. Dacudao, and concurred in by Associate Justice Ruben Reyes (retired member of this Court) and Associate Justice Amelita Tolentino; *id*, pp. 26-34.

[3] *I d*, p. 35.

[4] Penned by Associate Judge Amancio Q. Saga, and concurred in by Presiding Judge Ernesto D. Acosta; *id*, pp. 58-70.

[5] *I d.*, pp. 71-82.

[6] *Id.*, pp. 83-95.

[7] *Id.*, p. 96.

[8] *Id.*, p. 97.

[9] *Id.*, pp. 99-109.

[10] *Supra* note 4.

[11] *Rollo*, pp. 36-55.

[12] *Supra* note 1.

[13] *Supra* note 2.

[14] Per Republic Act No. 9135, Section 1603 has been amended such that the liquidation becomes final after the expiration of three (3) years from the date of the final payment of duties. However, this amendment does not apply to the present case since it took effect only in 2001.

[15] *Philippine Airlines, Inc. v. Court of Appeals,* G.R. No. 120262, July 17, 1997, 275 SCRA 621.

[16] This Court may review the factual findings of the lower courts where (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record; *Sarmiento v. Court of Appeals,* G.R. No. 110871, July 2, 1998, 291 SCRA 656.

[17] The law applicable at the time the dutiable value of the vessel was assessed in 1994.

[18] *Republic v. Intermediate Appellate Court*, G.R. No. 69138, May 19, 1992, 209 SCRA 90.

[19] *Sharp International Marketing v. Court of Appeals*, G.R. No. 93661, September 4, 1991, 201 SCRA 299.

[20] *Kapisanan ng Manggagawa sa Government Service Insurance System* v. *COA,* G.R. No. 150769, August 31, 2004, 437 SCRA 371; *Baybay Water District v. COA*, G.R. Nos. 147248-49, January 23, 2002, 374 SCRA 482.

[21] G.R. No. 156571, July 9, 2008.

[22] *Republic of the Philippines v. Heirs of Felix Caballero*, G.R. No. L-27473, September 30, 1977, 79 SCRA 177.

[23] *Caltex Philippines v. COA*, G.R. No. 92585, May 8, 1992, 208 SCRA 726.

[24] See: *Papa v. Mago*, G.R. No. L-27360, February 28, 1968, 22 SCRA 865; *Viduya v. Berdiago*, G.R. No. L-29218, October 29, 1976, 73 SCRA 553.

[25] 5th ed., 1979, p. 832.

[26] See: 51 Am. Jur. 857.

[27] G.R. No. 178759, August 11, 2008.

[28] *Commissioner of Internal Revenue v. Court of Tax Appeals*, G.R. No. 106611, July 21, 1994, 234 SCRA 348; *Commissioner of Customs v. Makasiar*, G.R. No. 79307, August 29, 1989, 177 SCRA 27. According to then Senator Gloria Macapagal-Arroyo (now President of the Republic of the Philippines):

> "The [BOC] is one of the premier revenue collecting arms of the Government, who together with the Bureau of the Internal Revenue accounts for the collection of more than eighty percent (80%) of government revenue." (March 29, 1993, Explanatory Note of Senate Bill No. 451, p. 14)

[29] *Commissioner of Internal Revenue v. Goodrich International Rubber Co.*, G.R. No. L-22265, March 27, 1968, 22 SCRA 1256; *Commissioner of Internal Revenue v. Pineda*, G.R. No. L-22734, September 15, 1967, 21 SCRA 105.

[30] *Philex Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 125704, August 28, 1998, 294 SCRA 687.
