IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION
PHOTOS PHOTIADES AND CO.,
Applicants,

and

THE REPUBLIC OF CYPRUS, THROUGH THE MINISTER OF FINANCE,
Respondent.

(*Case No.* 47/63)

Revenue—Imposition of customs duty through classification of goods—Whether power granted to the Director of Customs under section 140 *of the Customs Management Law, Cap.* 315, *properly exercised—Obligation of administration to enquire fully into relevant facts—Doubt as to factual situation on which administrative decision has been based.*

The applicants in the instant case, claim that the imposition by respondent of the amount of £114.200 by way of Customs duty in respect of the importation of certain Godor Aerosol Products through classifying such goods under tariff item 552-01 (*b*) of the First Part of the Second Schedule to the Customs Tariff Law, 1961, (Law 31 of 1961) should be declared to be null and void.

The facts of the case are that on or about 20.8.62, applicants imported and/or cleared 240 bombs (or tins each of 180 gr.) of Godor White Aerosol Deodorant, 240 bombs of Godor Rose Aerosol Deodorant and 240 bombs of Godor Green Aerosol Deodorant, plus 45 bombs sent as samples. As a result of classifying such goods under tariff item 552-01 (*b*) of the First Part of the Second Schedule to the Custons Tariff Law, 1961, (Law 31 of 1961), applicants were burdened with customs duty amounting to £114.200.

The issues, as framed in the statement of the case, may be condensed into one main issue, namely, whether the Director of Customs, in classifying the goods in question under tariff item 552-01 (*b*), acted in the proper exercise of the powers granted under section 140 of the Customs Management Law, Cap. 315, including applying the First Part of the Second Schedule to Law 32/61.

There appears to exist in this case a disputed issue of fact : What is the essential character of these Godor Aerosols?

Evidence has been given at the presentation by a qualified analyst, called by applicants, to the effect that the products in question are preparations intended mainly to be used as disinfectants and not as perfumes.

This issue of fact bears true relevance to the proper application of section 140 of the Customs Management Law, Cap. 315, and consequently the application of the correct tariff item, especially when one bears in mind the provisions of sub-section 2 of such section and particularly of paragraph (*b*) thereof.

Section 140 of Cap. 315 which is so material for the purposes of this judgment is set out in full later in the judgment of the Court with the exception of sub-section (4) which is a definition sub-section.

Held, (1) the administrative act or decision concerned, is defective in that one of the essential steps, necessary for its validity, *i.e.* the proper ascertainment of the correct factual situation, has not taken place.

(2) Moreover, the requirements of section 140, of Cap. 315, which had to be complied with before sub-section 2 (*c*) or sub-section (3) could be applied, have not been complied with, because of not properly trying to ascertain if the criterion under sub-section 2 (*b*) was applicable, and, it follows thus, that the act or decision in question of the Director of Customs is not in accordance with the relevant legislation, *i.e.* section 140 of Cap. 315.

(3) Even if the contrary had been found to be the case, *i.e.* that the necessary inquiry envisaged by sub-section 2 (*b*) had taken place, then the correctness of the factual position has been placed into reasonable doubt by the evidence adduced by applicants and the arguments on their behalf.

(4) Decision of the Director of Customs, the subject-matter of this case, annulled. Director of Customs afforded a full opportunity to reach a new decision after establishing with certainty all the relevant facts and applying correctly the relevant law.

Decision complained of declared null and void and of no effect whatsoever. Up to the Director of Customs to deal with the matter anew.

Cases referred to :

Decision 445 *of* 1934 *of the Greek Council of State.*

Recourse.

Recourse against the imposition by respondent of the amount of £114.200 by way of customs duty in respect of the importation of certain Godor Aerosol products, classifying such goods under tariff item 552-01 (*b*) of the First part of the Second Schedule to the Customs Tariff Law, 1961, (Law 32/61) instead of classifying them under Tariff item 599-02 and/or 599-09 of the said Law.

G. Tornaritis, for the applicants.

K. C. Talarides, Counsel of the Republic, for the respondent.

Cur. adv. vult.

The following judgment was read :

TRIANTAFYLLIDES, J. : The two claims in the motion for relief in this case amount in substance to one only *i.e.* that the imposition by respondent of the amount of £114.200 by way of customs duty in respect of the importation of certain Godor Aerosol products, through classifying such goods under tariff item 552-01 (*b*) of the First Part of the Second Schedule to the Customs Tariff Law, 1961, (Law 32/61) should be declared to be null and void.

There is a procedural matter which has to be rectified first :

Claim (*a*) of the motion for relief refers to the "goods referred to in paragraph 2 of the facts". Such facts are those relied upon in support of the application and the relevant part of paragraph 2 thereof reads—" On or about 20.8.62 applicants imported and/or cleared 240 tins Godor Aerosol disinfectants and/or deodorant disinfectants ". In paragraph 5 of the said facts it is alleged that as a result of the classification complained of applicants were burdened with customs duty amounting to £114.200.

In paragraph 1 of the facts relied upon in opposition, the goods in respect of which the £114.200 was collected as duty are described as " 240 bombs (or tins each of 180 gr.) of Godor White Aerosol Deodorant, 240 bombs of Godor Rose Aerosol Deodorant and 240 bombs of Godor Green Aerosol Deodorant, plus 45 bombs of Godor sent as samples ".

In the statement of the case prepared after presentation the said goods are stated in the " uncontested facts " to be as set out in paragraph 1 of the facts relied upon in opposition, except that the 45 samples appear to have been left out.

After perusing the relevant Customs declaration, form C30 and the shipping documents attached thereto, *exhibit* 20 (*a*), I have reached the conclusion that paragraph 2 of the facts in the application has through an obvious oversight set out only part of the goods in respect of which £114.200 duty was paid ; there can be no doubt that the recourse is essentially made against the decision to impose such duty, through allegedly wrong classification, and this appears to be so from paragraph 5 of the facts in the application, from paragraph 1 of the facts in the opposition and from the uncontested facts in the statement of the case.

I am of the opinion that the incomplete description of the goods concerned, in paragraph 2 of the facts in the application, is deemed to have been duly corrected, by necessary implication, by means of the opposition and the statement of the case ; for the purpose of putting, however, the record in order also formally, I hereby direct that the said paragraph 2 should be amended accordingly so as to refer to all the goods in respect of which the duty of £114.200 was paid. I am satisfied that such amendment, in the circumstances, would not prejudice either of the parties concerned, who have argued their case on the basis of the statement of the case, and it is necessary in the interests of justice.

The issues, as framed in the statement of the case, may be condensed into one main issue, namely, whether the Director of Customs, in classifying the goods in question under tariff item 552-01 (*b*), acted in the proper exercise of the powers granted under section 140 of the Customs Management Law, Cap. 315, including applying the First Part of the Second Schedule to Law 32/61.

Section 140 of Cap. 315 is so material for the purposes of this judgment that it should be set out in full, with the exception of sub-section (4) which is a definition subsection.

> " 140.—(1) Goods shall, *prima facie*, be classified for the purposes of Customs duty in accordance with the classification set out in Part I of the Second Schedule to the Customs Tariff Law, or any Law amending or substituted for the same.

(2) Where for any reason, it is, in the opinion of the Comptroller, not clear under what item in Part I of the Second Schedule to the Customs Tariff Law any goods fall, such goods shall, subject to the provisions of this Law be classified by reference to the appropriate item in the Item Index to the Standard International Trade Classification and where it is not clear under which item thereof such goods shall be classified classification shall be effected as follows :

(*a*) the item of the Item Index aforesaid which provides the most specific description shall be preferred to items providing a more general description ;

(*b*) mixtures and composite goods which consist of different materials or are made up of different components and which cannot be classified in the manner specified in paragraph (*a*) of this sub-section shall be classified as if they consisted of the material or component which gives the goods their essential character, in so far as this criterion is applicable ;

(*c*) goods not falling clearly within any item in accordance with paragraphs (*a*) or (*b*) of this sub-section shall be classified under the item which the Comptroller considers appropriate to the goods to which they are most akin.

(3) Where any goods cannot be classified in accordance with sub-section (1) of sub-section (2) of this section by virtue of the fact that they are or can be classified under two or more items of the Item Index to the Standard International Trade Classification with a resulting difference as to Customs duty, Customs duty shall be charged when it is a difference between liability to or freedom from duty, and the higher or highest of the Customs duties applicable shall be charged when it is a difference as to two or more Customs duties".

In my opinion it has been correctly submitted by counsel for respondent that sub-sections (1) to (3) of section 140 have to be applied in a consequential progress, *i.e.* if sub-section (1) is not applicable, then sub-section (2) has to be applied and if neither of them is applicable, then sub-section (3) is to be applied. The same holds good in respect of the main part of sub-section (2) and paragraphs (*a*), (*b*) and (*c*) thereof, taken together, and in respect of each of the said paragraphs *vis a vis* each other.

For the purposes of this judgment it is not necessary to quote *in extenso* the relevant tariff items in the First Part to the Second Schedule of Law 32/61.

The Godor Aerosol products are of Italian origin. They are distinguished into "Green" Aerosol, suitable for kitchens, "White" Aerosol, suitable for toilets and "Rose" Aerosol, suitable for living areas.

According to *exhibit* 12 (*a*), which is a report of the detailed analysis of the products carried out by a qualified analyst of its manufacturers, they contain the following :

"(1) GODOR WHITE :	%
Perfumed essential oil	0,80
Odorless Kerosene	5,26
Hyamine 1622 (°)	0,05
Methylene chloride	5,00
Freon 11/12	88,89
	100,00
(2) GODOR ROSE :	
Perfumed essential oil	1,00
Exachloroethane	0,20
Hyamine 1622 (°)	0,05
Odorless Kerosene	2,86
Methylene chloride	7,00
Freon 11/12	88,89
	100,00
(3) GODOR GREEN :	
Perfumed essential oil	2,95
Hyamine 1622 (°)	0,05
Odorless Kerosene	3,10
Methylene chloride	5,00
Freon 11/12	88,90
	100,00

(°) Hyamine 1622 quaternary ammonium salt produced by Rohm & Haas Co. Philadelphia."

On the 8th September, 1962, the applicant wrote to the Director of Customs (who comes under the respondent Ministry of Finance), complaining that a 100% duty had been levied in respect of the tins in question because of classification under tariff item 552-01 (*b*), whereas the proper tariff item ought to be 599-02, (see *exhibit* 7).

The Director of Customs replied on the 22nd September, 1962, by *exhibit* 9, rejecting applicants' objection. The Director appears to write in terms of sub-section (2) of section 140, though this is not expressly stated to be so.

On the 16th October, 1962, the case for applicants was put to the Director of Customs, by means of *exhibit* 4, thus :

> " 5. Consequently it is still our claim and right that above preparation should only be classified under Tariff item 599-02 for the following reasons :
>
> 1. Under 140 (1) of Cap. 315 of the Laws of Cyprus : All goods should be classified *prima facie* as per the classification set out in part 1 of the second schedule to the Customs Tariff Law. Therefore disinfectants can only go under 599-02 and not under 552-01 as there is nothing in item 552-01 to cover the case whereas item 599-02 provides a specific description of the same. No reference can be made to S.I.T.C. unless for some reason it is not clear as to how to apply the classification in question under the above section. However, even in such case the goods in question should still be classified under Item 599-02 because S.I.T.C. does not help in any way, even if the preparation is mainly a deodorant, as you say, which is not the case because it should seem that perfumes for rooms are not the same thing as deodorants and even if they are there is nothing to interpret this term as including disinfectants. Therefore whether the goods are mainly deodorants or equally deodorants and disinfectants, S.I.T.C. could not be of any real help as explained above and the classification as to the disinfectants should prevail by resorting to section 140 (2) (*a*) or as a last resort to section 140 (2) (*b*) the component of disinfectant giving in fact to the goods their essential character.
>
> 6. However all the above arguments are in fact needless if you reconsider the matter on the basis that the preparation is in fact mainly disinfectant as explained above and classify the same properly under Tariff Item 599-02 in accordance with section 140 (1). In any case if this does not take place Messrs. Photos Photiades & Co. for the above reasons will be forced to resort to legal proceedings for determination of their rights ".

On the 30th October, 1962, the respondent sought the assistance of the Government Analyst in the matter, by a letter, which is *exhibit* 10. This letter, being very material, is reproduced here as a whole :

" Above preparation, being regarded by Customs as mainly a ' deodorant ', and so described on the invoice produced, (on other documents produced described as insecticide and deodorant for domestic use), it was classed as ' perfumes, for rooms ' under Tariff Item 552–01 (*b*), (' Perfumery, cosmetics and other toilet preparations, except soap, as follows : Other, 60%–100%) and not as a ' disinfectant ' or an ' insecticide ' under Tariff Item 599–02, ' insecticides, fungicides and disinfectants, including sheep and cattle dressings and similar preparations Free-Free ') as was importers' claim.

2. As you may be aware, the Cyprus Customs Tariff is based on the United Nations Standard International Trade Classification (Indexed Edition) and should be read in conjunction with that publication. The heading of S.I.T.C. Item 599–02 (Insecticides, fungicides, disinfectants and etc.) specifically excludes ' deodorants ', whereas S.I.T.C. Item 552–01 (Perfumery, toilet preparations and etc.) specifically includes ' deodorisers, personal ' and ' perfume for rooms '.

3. I therefore consider that all prepared deodorisers, such as Zoflora, Zal Air Freshener, Newlands Lavender Air Freshener and Aerial Disinfectant, Parador Air Freshener, Dis-Pel, Rotosan Air Conditioners, Deodorant Blocks, Deodorant Crystals, Rotofresh Deodorant Blocks, Deodorant Blockettes, etc., whether or not they contain essential oils to give them a fragrant odour, are properly classified under Tariff Item 552–01 (*b*). ' Insecticides, whether perfumed or not, for spraying ' are however classed under Tariff Item 599–02, unless it is suspected that such are *predominantly* ' perfume for rooms '.

4. In view of the above, I shall be glad of your advice whether the preparation referred to in the caption is predominantly a deodorant or an insecticide and/or a disinfectant. Messrs. Photiades have been requested to supply you with sample for inspection and analysis. In determining your advice, I would like to refer you to section 140 of the Customs Management Law, Cap. 315, especially sub-section (3) thereof (a transcript being attached for easy reference)."

On the 17th December, 1962, sample tins of all three Godor Aerosols were sent to the Government Analyst, though *exhibit* 10 appears to have been written in respect of Green Aerosol only. The Analyst replied on the 29th December, 1962, by letter, *exhibit* 13, which again is worth reproducing in full :

> " Reference your letters 552–01 of the 30th October and the 17th December 1962.
>
> I agree with your arguments expressed in your letter 552–01 of the 30th October regarding the classification of the Godor Aerosols, and consider the classification of the samples under item 552–01 (*b*).
>
> None of the Godor Aerosols submitted was found to possess any insecticidal properties.
>
> In view of the fact however that the above classification might lead to a court case, it is requested that the importers be asked to supply the Customs Authorities before final decision is reached with the formula of his products, as well as with the methods of analysis for the determination of the active ingredients ".

This letter cannot by any means be considered as the definite and duly considered opinion of the Government Analyst.

As a result of this letter it appears that a copy of the chemical analysis of Godor Aerosols was sent to the Government Analyst on the 2nd January, 1963, and (after a reminder sent to him on the 5th January, 1963) his final opinion was expressed in a letter dated the 14th January, 1963, *exhibit* 15, which it is necessary again to reproduce in full :

> " Reference your letters 552–01 of the 30th October, 1962, the 2nd January, 1963 and the 5th January, 1963 and my letter 116/62 of the 29th December, 1962.
>
> The Godor Aerosol preparations can be used to disinfect rooms as they contain quaternary ammonium compounds. These aerosol preparations however, can be used as room perfumes in view of the fact that they are perfurmed and they impart to the room sprayed with them a pleasant perfume.
>
> Having in mind the provisions of section 140 (3) of the Customs Management Law, I am of the opinion that your classification of these products under 552–01 (*b*) is justified.

I would like to point out that had these preparations contained no perfume they could not be classified under item 552-01 (*b*)".

Thus, on the 26th January, 1963, the Director of Customs made his decision which is contained in *exhibit* 5. In it he wrote, *inter alia*, to applicants :

"I beg to inform you that above preparation has been examined by the Government Analyst who opined that as it can be used as a room perfume, in view of the fact that it is perfumed and it imparts to the room sprayed with it a pleasant fragrance, it is classifiable under tariff item 552-01 (*b*)".

and then—

"2. In view of the preceding paragraph, I regret that I an unable to alter the decision communicated to your clients (Messrs. Photos Photiades & Co.), by my letter of even number, dated the 22nd September, 1962, to the effect that 'Godor Aerosol Deodorant' was classifiable under Tariff Item 552-01 (*b*).

3. In this connection, I would state that 'Godor Bianco Aerosol particolarmente adatto per toilettes' and 'Godor Rose particolarmente adatto per ambienti di soggiorno e pranzo', samples of which have also been examined by the Government Analyst, are also classifiable under Tariff Item 552-01 (*b*), for the same reasons".

and further down—

"5. I also regret that I am unable to agree with paragraph 5 of your letter of the 16th October, 1962, as the Cyprus Customs Tariff is read in conjunction with the United Nations Standard International Trade Classification (Indexed Edition) Series M No. 10, published at New York in April, 1953, and the heading of Standard International Trade Classification Item 599-02 (Insecticides, fungicides, disinfectants and etc.) specifically excludes 'deodorizers', whereas Standard International Trade Classification Item 552-01 (Perfumery, toilet preparations and etc.) specifically includes 'deodorisers, personal' and 'perfume, for rooms'. Therefore, even though there was any doubt (which is not the case) as to the classification for Customs duty purposes of Godor Aerosol Deodorants, in view of the requirements of section 140 (3) of the Customs Management Law, Cap. 315, the classification made in paragraphs 2 and 3 above would appear correct."

There followed further correspondence one of which was *exhibit* 17, in which the Director of Customs, on the 9th March, 1963, reaffirmed his decision, stating : " Godor Aerosol Deodorants being preparations for perfuming rooms in spite of the fact that they contain disinfectant constituents, are regarded for customs purposes as perfumes for rooms and *not* perfumed disinfectants, and as such are classifiable under tariff item 552-01 (*b*) ".

The Director of Customs, giving evidence at the presentation, made it clear that he had taken his decision in question by acting under " section 140 and particularly paragraph 2 (*c*) ".

At the hearing of this case, counsel appearing for the respondent relied mainly, in justifying the classification as made, on sub-section (3) of section 140.

Sub-section (3) is referred to also by the Director of Customs in the letter addressed by him to the Government Analyst, *exhibit* 10, and in the letter of the Government Analyst to the Director of Customs, *exhibit* 15.

There exists in this case a disputed issue of fact : What is the essential character of these Godor Aerosols? Evidence has been given at the presentation by a qualified analyst, Mr. Costas Themistocleous, who was called by applicants, to the effect that the products in question are preparations intended mainly to be used as disinfectants and not as perfumes.

This issue of fact bears direct relevance to the proper application of section 140 of Cap. 315, and consequently the application of the correct tariff item, especially when one bears in mind the provisions of sub-section (2) of section 140 and particularly of paragraph (*b*) thereof.

Deciding the correct facts to which the law ought to be applied by an administrative authority is not, as a rule, the function of an administrative Court, except in those cases where it is alleged that such an authority has proceeded to act under a misconception concerning the true facts.

It need hardly be stressed that an administrative authority has a duty to make the reasonably necessary inquiry for the purposes of ascertaining the correct facts to which the relevant legislation is to be applied. The ascertainment of the true factual situation is one of the four necessary steps in the making of an administrative act, as follows : the study and, if necessary, interpreta-

tion of the relevant legal provisions ; ascertainment of the correct facts ; application of the law to the facts ; and decision on the course of action. (Vide " The Law of Administrative Acts " by Stasinopoulos (1951) p. 249).

In the present case, in the light of the totality of its circumstances, I have reached the conclusion that the Director of Customs, before proceeding to apply the relevant provisions of law has not discharged fully his duty of ascertaining the correct factual situation.

There can be no doubt that the products under consideration are mixtures or composite goods which consist of different materials or are made up of different components, as envisaged by sub-section 2 (*b*) of section 140.

Whether the Director of Customs has acted under sub-section 2 (*c*) of section 140, as he himself has stated in evidence, or whether his action is to be found justified, in any case, in view of sub-section (3), as submitted by counsel for respondent, both propositions involve the assumption that sub-section 2 (*b*) was not applicable, *i.e.* classification as if the products consisted of the material or component which gives the goods their essential character could not be made in this case.

The Director of Customs, has not in my opinion, exhausted the inquiry required by a reasonably sufficient attempt to apply sub-section 2 (*b*) of section 140. This is clear from his whole approach to the matter concerned.

Very significant in this respect is the letter to the Government Analyst, *exhibit* 10. Its contents have been quoted already in full. I think it can fairly be described as an effort, *bona fide* though, to enlist the support of an expert opinion for a view already formed by the Director of Customs, instead of the Analyst being only given the facts and asked to pronounce on them. Though it is correct that in paragraph 4 of such letter the advice of the Government Analyst appears to be sought whether the preparation in question is " predominantly a deodorant or an insecticide and/or disinfectant ", the Director of Customs not only did not refer the Analyst to the provisions of sub-section 2 (*b*) of section 140, though this had been expressly pointed out by applicant in *exhibit* 4, but on the contrary he proceeded to draw attention to the provisions of sub-section (3) only, a transcript of which he attached to his letter in question for the guidance of the Analyst, thus by-passing any attempt to apply sub-section (2) at all.

As a result the Government Analyst, as it appears from his letter *exhibit* 15 proceeded to consider the matter only in the light of sub-section (3) of section 140, having not tried to reach, if possible, a definite decision concerning the material or component giving the product its essential character. It is also clear from *exhibit* 15, which is the final opinion of the Government Analyst, that he found the preparations concerned to be both disinfectants and perfumes for rooms, without proceeding to decide which function was the predominant one, and on this point he proceeds to state—

> "Having in mind the provisions of section 140 (3) of the Customs Management Law I am of the opinion that your classification of these products under 552–01 (*b*) is justified.
>
> I would like to point out that had these preparations contained no perfume they could not be classified under item 552–01 (*b*)."

This opinion of the Government Analyst was all that was required for the purposes of sub-section (3), to which only his attention was drawn, but it cannot be fairly described as a considered expert opinion for the purposes of sub-section 2 (*b*), a thing which, in the circumstances, the Director of Customs had a duty to seek clearly and a thing which he did not do.

Having reached the conclusion that the inquiry necessitated by sub-section 2 (*b*), in a case like this, has either not been properly embarked upon at all, or, to say the least, that it has not been followed to its reasonable conclusion, I am of the opinion that the administrative act or decision concerned, is defective in that one of the essential steps, necessary for its validity, *i.e.* the proper ascertainment of the correct factual situation, has not taken place. Moreover, the requirements of section 140, which had to be complied with before sub-section 2 (*c*) or sub-section (3) could be applied, have not been complied with, because of not properly trying to ascertain if the criterion under sub-section 2 (*b*) was applicable, and, it follows thus, that the act or decision in question of the Director of Customs is not in accordance with the relevant legislation *i.e.* section 140 of Cap. 315.

Even if the contrary had been found to be the case, *i.e.* that the necessary inquiry envisaged by sub-section 2 (*b*) had taken place, then, in my opinion, the correctness of the factual position, as stated by the Director of

Customs in *exhibit* 17, in particular, has been placed into reasonable doubt by the evidence adduced by applicants and the arguments on their behalf. In cases where, through such doubt having arisen, it appears probable that the administrative act concerned has been based on a misconception of the true factual situation, an administrative court has two courses open to it in order to clear the doubt that has arisen : Either to order further necessary evidence or to annul the act concerned so that the administration may ascertain the real facts without room for doubt being left. (See " The Law of Administrative Acts " by Stasinopoulos (1951) p. 305).

In the present case I think that it is proper to follow the second course *i.e.* to annul the decision of the Director of Customs, the subject-matter of the case, and to afford him a full opportunity to reach a new decision after establishing with certainty all the relevant facts and applying correctly the relevant law.

In a technical matter such as the present one I do not think that it would be proper to substitute at this stage my decision for that of the Director of Customs, which has to be reached on the basis of the requisite further expert investigation ; nor do I think that it would be convenient or proper to conduct such investigation by calling experts as witnesses at a re-opened hearing of this case. A useful precedent of this course is to be found in the decision of the Greek Council of State 445/1934 (Decs. Coun. of St. 1934 vol. A II p. 112). The facts there are different but the principle is the same.

The decision, therefore, of the Director of Customs contained in *exhibits* 5 *and* 17 for the imposition of customs duty amounting to £114.200, through classification under tariff item 552-01 (*b*), is hereby declared to be null and void and of no effect whatsoever for all the reasons set out hereinbefore. It is now up to the Director of Customs to deal with the matter anew.

Decision complained of declared null and void and of no effect whatsoever.