

**\*\*Title: Renato V. Diaz and Aurora Ma. F. Timbol vs. The Secretary of Finance and The Commissioner of Internal Revenue\*\***

**\*\*Facts:\*\***

Renato V. Diaz and Aurora Ma. F. Timbol filed a petition for declaratory relief against the imposition of value-added tax (VAT) on toll fees by the Bureau of Internal Revenue (BIR). Diaz, a former sponsor of tax-related laws, and Timbol, a former assistant secretary and consultant to the Toll Regulatory Board, challenged the BIR's move as it would lead to increased toll fees and, they argued, violated the constitution. The BIR had deferred its plan to impose VAT on toll fees during President Gloria Macapagal-Arroyo's administration due to opposition but revived it under President Benigno C. Aquino III, with implementation set to begin on August 16, 2010. The Supreme Court issued a temporary restraining order (TRO) against the imposition on August 13, 2010, and later treated the petition as one for prohibition.

The government, represented by the Secretary of Finance and the Commissioner of Internal Revenue, contended that the NIRC imposes VAT on services of franchise grantees, including tollway operations, unless exempted by the law. They argued that the petitioners lacked legal standing and that the BIR's action did not violate the non-impairment clause of the constitution since it was an exercise of the State's sovereign taxing power.

**\*\*Issues:\*\***

1. Whether the Court can treat the petition for declaratory relief as one for prohibition.
2. Whether petitioners have the legal standing.
3. Whether including tollway operations under "sale of services" and subjecting them to VAT unlawfully expands VAT coverage.
4. Whether VAT imposition on tollway operations amounts to a tax on tax, impairs tollway operators' right to reasonable return on investments, and is not administratively feasible.

**\*\*Court's Decision:\*\***

A. On Procedural Issues:

The Court decided it was proper to treat the petition as one for prohibition due to the significant public interest and potential complications in refunding the tax should VAT imposition be later deemed unlawful. The formal requirements for a prohibition petition

were set aside due to the importance of resolving the public questions the case presented.

B. On Substantive Issues:

1. The Court determined that tollway operations are indeed “sale of services” as defined in Section 108 of the NIRC, noting the broad inclusion of various services and tollway operators’ role as franchise grantees. The Court found no exclusive indication in Section 108 that only those with legislative franchises are covered, thus including tollway operators under VAT coverage.

2. It was established that toll fees are not considered a “user’s tax” but rather payments for the use of facilities, thus can be subjected to VAT without being deemed a tax on tax. The Court also clarified that the burden of VAT falls on the tollway operator, not the user, further dismissing the argument that VAT on toll fees amounts to taxing a tax.

3. The Court rejected claims related to the non-impairment of contracts and practicality of imposing VAT on toll operations, stating they were speculative or based on unproven assumptions about administrative feasibility and the impact on tollway operators’ revenue.

**\*\*Doctrine:\*\***

The case reaffirmed the broad scope of VAT on “all kinds of services” rendered for a fee in the Philippines, including services provided by franchise grantees, and clarified that tollway operations fall under this category. It highlighted that VAT is an indirect tax, the burden of which can be passed to the consumer, and reinforced the State’s sovereign power to levy taxes within constitutional and statutory limits.

**\*\*Class Notes:\*\***

- VAT applicability: This case illustrates the principle that VAT can be applied to a wide array of services, including those rendered by franchise grantees, as long as not explicitly exempted by law.
- Legal standing: One can challenge a tax imposition if directly affected by it, but speculative claims and indirect impacts generally do not confer standing.
- Tax on tax: VAT, being an indirect tax, is not considered a tax on tax when imposed on fees that themselves might be viewed by some as a form of “user’s tax.”
- Sovereign taxing power: The government’s power to impose taxes is subject both to the non-impairment clause and administrative feasibility considerations, though these do not

automatically invalidate a tax imposition.

**\*\*Historical Background:\*\***

The contention over VAT imposition on toll fees marked a significant debate on tax policy in the Philippines, reflecting the tension between revenue generation for public projects and the potential economic burden on consumers. The case demonstrates the judiciary's role in interpreting tax laws and the balance between legislative intent and the practical administration of tax. It underscores the evolving nature of tax legislation and its application in response to changing economic landscapes and infrastructure development strategies.