

Title:

****Philippine-American Drug Company vs. Collector of Internal Revenue and Court of Tax Appeals****

Facts:

The Philippine American Drug Co. (hereinafter "Petitioner") challenged the deficiency advance sales tax assessment made by the Collector of Internal Revenue (hereinafter "Respondent") amounting to P10,243.13 for the period between February 14, 1951, to December 31, 1954. The assessment was based on the Respondent's inclusion of a bank premium of P0.015 for every U.S. dollar purchased by the Petitioner for its importations, which the Petitioner had not included in calculating the landed cost of imported goods for the computation of advance sales tax. The dispute revolved around whether this premium should be considered part of the landed cost for sales tax purposes.

The case proceeded from the Court of Tax Appeals (CTA), where the Respondent's assessment was upheld, to the Supreme Court on appeal by the Petitioner. The CTA decision was based on a stipulation of facts submitted by both parties, focusing solely on the legality of including the dollar premium in the landed cost for sales tax computation.

Issues:

1. Whether the bank charge of P0.015 per U.S. dollar, representing the premium on dollar purchases for importations, falls under the category of charges to be included in the landed cost for calculating advance sales tax under Section 183-(B) of the National Internal Revenue Code.
2. Whether the doctrine of *ejusdem generis* limits the inclusion of the bank premium in the calculation of advance sales tax.
3. Whether the assessment made by the Respondent has retroactive effect, violating principles of legality and fairness.

Court's Decision:

The Supreme Court upheld the decision of the Court of Tax Appeals affirming the Collector of Internal Revenue's assessment. The Court decided on the following points:

1. ****Regarding the inclusion of the bank charge in the landed cost:**** The Court affirmed that according to the National Internal Revenue Code, all charges an importer pays to complete an importation, which would necessarily increase the landed cost, should be included in the advance sales tax calculation. This includes the bank premium in question.

2. **Application of the doctrine of ejusdem generis:** The Supreme Court disagreed with the Petitioner's contention that the doctrine limits the inclusion of the bank premium in the sales tax calculation. The Court highlighted that the law's intention is to encompass all charges incurred to bring the goods into the country for taxation purposes.

3. **On the retroactive effect of assessment:** The Court found no merit in the argument against the retrospective application of the assessment, stating the validity of the Respondent's November 4, 1955, decision was independent of the validity of prior internal rulings, aligning with Section 183-(B) of the Revenue Code. Moreover, the Court dismissed the notion that closed transactions could not be reassessed upon discovery of under-assessed taxes.

Doctrine:

The Supreme Court reaffirmed the principle that for the purpose of computing advance sales tax, the landed cost of imported goods should include all expenses incurred by the importer to complete the importation, including bank premiums for purchasing foreign exchange. Additionally, it clarified that the doctrine of ejusdem generis does not restrict the inclusion of such charges in the sales tax calculation if they are consistent with the legislative intent to tax the total landed cost of imported merchandise.

Class Notes:

- **Advance Sales Tax on Imported Goods:** Calculated based on the total landed cost, including the purchase price, freight, insurance, customs duties, and any other charges that increase the landed cost, such as bank premiums for foreign exchange.
- **Doctrine of Ejusdem Generis:** A rule of statutory construction stating that if a law lists specific classes of persons or things and then refers to them in general, the general statements only apply to the same kind of persons or things specifically listed. However, the Supreme Court clarified that its application must not defeat the purpose of the law.
- **Principle of Retroactive Assessment:** The government may reassess and collect additional taxes upon discovery of under-assessment, barring the defense of prescription. Errors by government agents in the initial assessment do not preclude corrected reassessment.

Historical Background:

This case highlights the complexities and challenges in tax law, particularly in the computation of advance sales tax on imported goods. It underscores the Supreme Court's role in interpreting tax legislation and ensures that tax laws align with broader economic

policies, such as managing foreign exchange and importation costs. This decision occurred within the context of post-WWII economic adjustments and evolving tax legislations, reflecting the government's efforts to stabilize the economy and ensure proper tax collection.