

COMMISSIONER OF INTERNAL REVENUE AND COMMISSIONER OF CUSTOMS, PETITIONERS-APPELLANTS, VS. PHILIPPINE ACE LINES, INC., RESPONDENT-APPELLEE.

G.R. Nos. L-20960-20961. October 31, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

On appeal by the Government from the decision - rendered jointly in Tax Cases Nos. 964 & 984 - of the Court of Tax Appeals, reversing the rulings of the Commissioner of Internal Revenue holding the Philippine Ace Lines, Inc. liable to pay the aggregate amount of P1,407,724.57 as compensating taxes on four (4) ocean-going cargo vessels acquired by said company from the Reparation Commission of the Philippines, and of the Commissioner of Customs to place the four vessels under customs custody until the aforementioned amount claimed by the Government was first paid.

The antecedent facts of the case are not in dispute and may be summarized briefly as follows:

Under date of January 23, 1959, the Reparation Commission agreed to sell to the Philippine Ace Lines the cargo vessels M/S YAKAL and M/S MOLAVE which were procured by the former from Japan for the end-use of the latter under the Philippine-Japanese Reparations Agreement of May 9, 1956, at the agreed prices of P4,283,241.48 and P4,292,457.48, respectively. Similar agreements involving two (2) other ocean-going cargo vessels were subsequently entered into by and between the same parties: one, dated November 11, 1959, referring to the purchase and sale of M/S TINDALO for the price of P7,054,177.78 and, the other, concerning the purchase and sale of M/S NARRA under date of December 14, 1959, for the price of P3,599,995.44. All these agreements - invariably denominated as "Contract of Conditional Purchase and Sale of Reparation Goods" - stipulated, among others, that the Reparations Commission retains title and ownership of the above-described vessels until they were fully paid for; and that the purchase prices of the vessels were to be paid by Philippine Ace Lines to the Reparations Commission under deferred payment plans in ten (10) equal annual installments.

The four (4) vessels referred to were thereafter delivered to Philippine Ace Lines in Japan; they were taken to the Philippines where they were registered in the Bureau of Customs in the name of the Reparations Commission; and thereafter, the vessels were operated and utilized by Philippine Ace Lines in its shipping business, plying between ports of foreign countries and the Philippines.

Sometime later, however, the Commissioner of Internal Revenue assessed against the Philippine Ace Lines the amounts of P304,428.00, P256,275.00, P499,948.10 and P305,073.47 as compensating taxes on the M/S YAKAL, M/S NARRA, M/S TINDALO and M/S MOLAVE, respectively, and demanded payment of the said amounts. The Commissioner of Customs, joining the Commissioner of Internal Revenue, then placed the vessels under customs custody at the different ports of the Philippines where they were found at the time, and refused to give due course to the "clearance" of said vessels as requested by their respective owner and operator - Reparations Commission and Philippine Ace Lines - unless the compensating taxes assessed against the latter were first paid

to the Commissioner of Internal Revenue. Philippine Ace Lines protested said actions of the Commissioners of Internal Revenue and of Customs, alleging that the legal title and ownership of the vessels operated by it were still vested with the Reparations Commission which, under Section 14 of the Reparations Act,[1] was exempt from payment of all duties, fees and taxes on all reparations goods obtained by it; but the said officials rejected the protest and ruled that the compensating taxes should first be paid, per directive to that effect by the Secretary of Finance. Subsequent protests - calling the attention of the Commissioner of Internal Revenue and the Commissioner of Customs to the substantial loss and irreparable injury it has suffered by the tying up of the four ships in port - also proved futile. Offshoots of the contro-versy, Philippine Ace Lines interposed two (2) separate appeals (petitions for review) from the above rulings or decisions of the Commissioner of Internal Revenue and the Commissioner of Customs, to the Court of Tax Appeals where they were docketed as C.T.A. Case No. 964, involving M/S YAKAL and M/S NARRA, and C.T.A. Case No. 984, concerning M/S TINDALO and M/S MOLAVE.

While the cases were pending trial, Philippine Ace Lines petitioned the court a quo to enjoin the collection of the compensating tax assessed against it and after hearing, writs of preliminary injunction were issued upon the filing of surety bonds to guaran-tee payment of the amounts claimed.

In the meantime, Congress enacted Republic Act No. 3079 (effective June 17, 1961) which amended Re-public Act No. 1789, otherwise known as the Reparations Act, and provided as follows:

"Sec. 14. Exemption from tax.- All repations goods obtained by the Government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt from the payment of customs du-ties, compensating tax, consular fees and the special import tax.

x x x x x

"Sec. 20. This Act shall take effect upon its approval, except that the amendment contained in section seven hereof relating to the requirements for procurement orders including the requirement of downpayment by private applicant end-users shall not apply to procurement orders already duly issued and verified at the time of the passage of this amendatory Act, and except further that the amendment contained in section ten relating to the insurance of the reparations goods by the end-users upon delivery shall apply also to goods covered by contracts already entered into by the Commission and the end-user prior to the approval of this amendatory Act as well as goods already delivered to the end-user, and except further that the amendments con-tained in sections eleven and twelve hereof relating to the terms of the installment payments on capital goods disposed of to private parties, and the execution of a performance bond before delivery of reparations goods, shall not apply to contracts for the utilization of reparations goods already entered into by the Commission and the end-users prior to the approval of this amendatory Act: Provided, That any end-user may apply for the renovation of his utilization contract with the Commission in order to avail of any provision of this amendatory Act which is more favorable to an applicant end-user than has hereto-fore been granted in like manner and to the same extent as an end-user filling his application after the approval of this amendatory Act, and the Commission may agree to such renovation on condition that the end-user shall voluntarily assume all the new obligations provided for in this amendatory Act." [Underscoring supplied]

Invoking the favorable provisions of the new law (Republic Act No. 3079, above-quoted), Philippine Ace Lines then entered into "Renovated Contract(s) of Conditional Purchase and Sale of Reparations Goods" with the Reparations Commission, covering the four(4) cargo vessels it had previously acquired from the latter under the Reparations Act. Thereafter, the said company filed a "Supplement to the Petition for Review" in each of the above entitled cases before the Court of Tax Appeals, submitting therewith copies of the said renovated contracts it had entered with the Repa-rations Commission regarding the purchase and sale of M/S MOLAVE, M/S TINDALO, M/S YAKAL and M/S NARRA, with the allegation that "expressly implementing section 14 of

Republic Act No. 3079 in the aforesaid renovated contracts", the Reparations Commission and the Philippine Ace Lines have agreed as follows:

"NOW THEREFORE, for and in consideration of the premises above stated and of the payments to be made by the herein Conditional Vendee as stipulated in Annex 'B' hereof which is made an integral part of this contract, the parties herein agree to execute this renovation of contract of Conditional Purchase and Sale and the Conditional Vendor hereby transfers and conveys unto the herein Conditional Vendee the ocean-going vessels above-described x x x; subject further to the pertinent provisions of Republic Act No. 1789 as amended, including particularly the exempting provisions of Section 14 thereof relative to the exemption from payment of compensating tax which the herein Conditional Vendee, as an implemented machinery, do hereby, by these presents, implement. x x x"

In their "Answer to Supplement to Petition for Review" filed with the court below by counsel for the Commissioner of Internal Revenue and the Commissioner of Customs, the foregoing allegation was admitted. They claimed, however, that even if Philippine Ace Lines and the Reparations Commission have agreed to implement the provisions of Section 14 of Republic Act No. 1789, as amended by Republic Act No. 3079, in the "Renovated Contract of Conditional Purchase and Sale of Reparations Goods" entered into between them, such implementation did not relieve the Philippine Ace Lines from the payment of the compensating taxes in question. The parties thereafter submitted the cases for decision upon a stipulation of facts containing, substantially, the facts as above set forth.

On January 25, 1963, the Court of Tax Appeals rendered a joint decision in the two cases, reversing the rulings of the Commissioner of Internal Revenue and the Commissioner of Customs, in the following rationale:

"The sole issue presented for our consideration is whether or not petitioner is liable for the compensating tax on the four ocean-going vessels in question. Petitioner claims that it is not liable on the grounds that said vessels are still owned by the Reparations Commission and that, assuming that it was liable therefor under Section 190 of the National Internal Revenue Code, in relation to Section 14 of Republic Act 1789 before its amendment, it is now exempt from said tax by virtue of Section 20 of Republic Act No. 3079 in relation to Section 14 of Republic Act No. 1789, as amended. On the other hand, respondent claims that petitioner is liable and that the latter's liability is not affected by the exemption provision of the new law.

x x x x

"The Government does not deny the fact that petitioner has complied with all the requirements of law in order that it may avail itself of all the favorable provisions granted in Republic Act No. 3079. It is, however, contended that the favorable provisions mentioned in Section 20 of said Act which may be availed of by an applicant for renovation of his utilization contract with the Reparations Commission do not include exemption from compensating tax because such exemption is not expressly stated in the law. In providing that the favorable provisions of Republic Act No. 3079 shall be available to applicants for renovation of their utilization contracts, on condition that said applicants shall voluntarily assume all the new obligations provided in the new law, the law intends to place persons who acquired reparations goods before the enactment of the amendatory Act on the same footing as those who acquire reparations goods after its enactment. This is so because of the provision that once an application for renovation of a utilization contract has been approved, the favorable provisions of said Act shall be available to the applicant 'in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act.' To deny exemption from compensating tax to one whose utilization contract has been renovated, while granting the exemption to one who files an application for acquisition of reparations goods after the approval of the new law, would be contrary to the express mandate of the law that they both be subject to the same obligations and they both enjoy the same privileges in like manner and to the same extent. It would be a manifest distortion of the literal meaning and purpose of the law.

"FOR THE FOREGOING CONSIDERATIONS, the decisions appealed from in both cases are hereby reversed. Accordingly, the surety bonds filed by petitioner to guarantee payment of the tax in question are hereby cancelled. No pronouncement as to costs."

Not satisfied with the foregoing decision of the Court of Tax Appeals, the Government has interposed the instant appeal therefrom to this Court.

Appellant now charges that the lower court had erred in holding that the renovation of the contracts of purchase and sale of the vessels involved in these cases, after the approval of Republic Act No. 3079, entitled Philippine Ace Lines to the exemption from payment of compensating tax under the provisions of the said law, notwithstanding the fact that the vessels referred to were acquired from the Reparations Commission long before the approval of said amendatory Act which, by the way, did not expressly authorize such exemption. It is argued that the favorable provisions of Republic Act No. 3079 invoked by Philippine Ace Lines and relied upon by the decision of the court below cannot include exemption from compensating tax, otherwise, had Congress intended so, it would have provided for such exemption in clear and explicit terms; that the tax exemption contained in Section 14 of the amendatory Act cannot have retroactive application in the absence of any provision for retroactivity; and that to grant such exemption to end-users who have acquired reparations goods before the approval of Republic Act No. 3079 would be prejudicial to the Government.

Appellant's position calls to mind *Commissioner of Internal Revenue vs. Bothelo Shipping Corporation*,^[2] the factual setting of which is on all fours with the case at bar, and where this Court, speaking through Chief Justice Roberto Concepcion, disposed of the same charge and contentions in clear and unequivocal terms, in the following wise:

"The inherent weakness of the last ground becomes manifest when we consider that, if true, there could be no tax exemption of any kind whatsoever, even if Congress should wish to create one, because every such exemption implies a waiver of the right to collect what otherwise would be due to the Government, and, in this sense, is prejudicial thereto. In fact, however, tax exemptions may and do exist, such as the one prescribed in Section 14 of Republic Act No. 1789, as amended by Republic Act No. 3079, which, by the way, is 'clear and explicit', thus, meeting the first ground of appellant's contention. It may not be amiss to add that no tax exemption - like any other legal exemption or exception - is given without any reason therefor. In much the same way as other statutory commands, its avowed purpose is some public benefit or interest, which the law-making body, considers sufficient to offset the monetary loss entailed in the grant of the exemption. Indeed, section 20 of Republic Act no. 3079 exacts a valuable consideration for the re-troactivity of its favorable provision, namely, the voluntary assumption, by the end-user, who bought reparations goods prior to June 17, 1961, of 'all the new obligations provided for in' said Act.

"The argument adduced in support of the third ground is that the view adopted by the Tax Court would operate to grant exemption to particular persons, the Buyers therein. It should be noted, however, that there is no constitutional injunction against granting tax exemptions to particular persons. In fact, it is not unusual to grant legislative franchises to specific individuals or entities, conferring tax exemptions thereto. What the fundamental law forbids is the denial of equal protection, such as through unreasonable discrimination or classification.

"Furthermore, Section 14 of the Law on Reparations, as amended, exempts from the compensating tax, not particular persons, but persons belonging to a particular class. Indeed, appellants do not assail the Constitutionality of said section 14, insofar as it grants exemptions to end-users who, after the approval of Republic Act No. 3079, on June 17, 1961, purchased reparations goods procured by the Commission. From the view point of Constitutional Law, especially the equal protection clause, there is no difference between the grant of exemption to said end-users, and the extension of the grant to those whose contracts of purchase and sale were made before said date, under Republic Act No 1789.

"It is true that Republic Act No. 3079 does not explicitly declare that those who purchased reparations goods prior to June 17, 1961, are exempt from the compensating tax. It does not say. So, because they do not really enjoy such exemption, unless they comply with the proviso in Section 20 of said Act, by applying for the renovation of their respective utilization contracts, 'in order to avail of any provision of the Amendatory Act which is more favorable' to the applicant. In other words, it is manifest, from the language of said section 20, that the same intended to give such buyers the opportunity to be treated 'in like manner and to the same extent as an end-user filing his application after the approval of this Amendatory Act.' Like the 'most-favored-nation clause' in international agreements, the aforementioned section 20 thus seeks, not to discriminate or to create an exemption or exceptions, but to abolish the discrimination, exemption or exception that would otherwise result, in favor of the end-user who bought after June 17, 1961 and against one who bought prior thereto. Indeed, it is difficult to find a substantial justification for the distinction between the one and the other. x x x"

We find no cogent reason to modify, much less depart from the conclusion reached in *Bothelo*, as expressed in the above-quoted opinion of the Court there, and the same should resolve the identical problem now brought before Us in this proceeding.

WHEREFORE, the decision of the Court of Tax Appeals appealed from in these cases is affirmed; no pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on leave.

[1] Sec. 14, R. A. 1789. Exemption from tax.- All reparations goods obtained by the Government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt only from the payment of customs duties, consular fees and special import tax.

[2] L-21633, June 29, 1967.

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