

**ESSO STANDARD EASTERN, INC., PETITIONER-APPELLANT, VS.
ACTING COMMISSIONER OF CUSTOMS, RESPONDENT-APPELLEE.***G. R. No. L-21841. October 28, 1966*

Ponente: SANCHEZ, J.

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Claim for the refund of P722.84 paid in 1956 as special import tax on pump parts imported by petitioner. Petitioner's ground: The imported articles "consist of equipment and spare parts for its own exclusive use and therefore were exempt from special import tax", by the terms of Section 6, Republic Act 1394. [1] The Collector of Customs of Manila rejected the claim. Respondent Acting Commissioner of Customs, on appeal, affirmed the rejection. Petitioner's case suffered the same fate in the Court of Tax Appeals. [2] We are asked to review the Court of Tax Appeals' judgment.

The interrelated errors assigned in petitioner's brief funnel down to one controlling legal issue: Are the imported pump parts exempt from the payment of special import tax?

By Section 1 of Republic Act 1394, a special import tax is imposed "on all goods, articles or products imported or brought into the Philippines" during the period from 1956 up to and including 1965 in accordance with the schedule of rates therein provided. Exempt from this tax, by express mandate of Section 6 of the same law, inter alia, are "machinery, equipment, accessories, and spare parts, for the use of industries, miners, mining enterprises, planters and farmers".

Petitioner is engaged in the industry of processing gasoline, and manufacturing lubricating oil, grease and tin containers. Petitioner owns gasoline stations with pumps, which are leased to and operated by gasoline dealers. It sells gasoline to these dealers. The pump parts imported by petitioner in 1956 were intended, installed and actually used by gasoline dealers in pumping gasoline from underground tanks into customers' motor vehicles. These pump parts, in other words, are used in the sale at retail of gasoline – not by petitioner but by lessees of gasoline stations. In this factual environment, it is quite evident that the pump parts are not used in petitioner's industry of processing gasoline, or manufacturing lubricating oil, grease and tin containers.

The drive of petitioner's argument is that marketing of its gasoline product "is corollary to or incidental to its industrial operations." [3] But this contention runs smack against the familiar rules that exemption from taxation is not favored, [4] and that exemptions in tax statutes are never presumed. [5] Which are but statements in adherence to the ancient rule that exemptions from taxation are construed in strictissimi juris against the taxpayer and liberally in favor of the taxing authority. [6] Tested by this precept, we cannot indulge in expansive construction and write into the law an exemption not therein set forth. Rather, we go by the reasonable assumption that where the State has granted in express terms certain exemptions, those are the exemptions to be considered, and no more. Since the law states that, to be tax exempt, equipment and spare parts should be "for the use of industries", the coverage herein should not be enlarged to include equipment and spare parts for use in dispensing gasoline at retail. In comparable factual backdrop, this Court has held that tax exemption in connection with the

manufacture of asbestos roof does not extend to the installation thereof. [[7]]

Upon the facts and the law, we vote to affirm the decision of the Court of Tax Appeals under review. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar and Ruiz Castro, JJ., concur.

Barrera, J., on leave.

[1] Petitioner's brief, p. 4.

[2] C.T.A. Case No. 1310, "Esso Standard Eastern, Inc., petitioner, versus Acting Commissioner of Customs, respondent".

[3] Petitioner's brief, p. 19; See also Petitioner's reply brief, p. 3.

[4] Asiatic Petroleum Co. (P.I.), Ltd. vs. Llanes, 49 Phil. 466, 471; House vs. Posadas, 53 Phil. 338, 340; Collector vs. Manila Jockey Club, Inc., 98 Phil. 670, 676.

[5] Song Kiat Chocolate Factory vs. Central Bank, et al., 54 O. G., No. 3, 615, 616; Jai-Alai Corp. of the Phil. vs. Court of Tax Appeals, et al., 57 O.G., No. 14, pp. 2490, 2495; Lealda Electric Co. vs. Commissioner, L-16428, April 30, 1963.

[6] Cooley on Taxation, 4th ed., Vol. 2, pp. 1403-1404; La Carlota Sugar Central, et al., vs. Jimenez, etc., L-12436, May 31, 1961, citing 82 C.J.S., pp. 957-958, 51 Am. Jur., p. 526; Philippine International Fair, Inc. vs. Collector, L-12928 & L-12932, „ March 31, 1962; Resolution in The Philippine Guaranty Co., Inc. vs. Commissioner, et al., L-22074, September 6, 1965.

[7] Collector vs. Eternit Corporation, 57 O.G., No. 6, pp. 1043, 1045.

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