

SMITH, BELL & CO. (PHIL.), INC., PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

G.R. No. L-28271. July 25, 1975

Ponente: CASTRO, J.

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CASTRO, J.:

This is a petition for review of the decision of the Court of Tax Appeals in case 1733 which affirms the deficiency assessment made by the Commissioner of Internal Revenue against the petitioner Smith, Bell & Co. in the amount of P11,713.90.

We affirm the decision of the Court of Tax Appeals.

From August 1963 to August 1965 the petitioner imported 119 cases of "Chatteau Gay" wine which it declared as "still wine" under Section 134(b) of the Tax Code and paid thereon the specific tax of P1.00 per liter of volume capacity. To determine the correct amount of the specific tax due on the petitioner's importation, the Commissioner of Internal Revenue (hereinafter referred to as the Commissioner) ordered it tested and analyzed in the Bureau of Internal Revenue Laboratory Center. The analyst who conducted the laboratory test reported that Chatteau Gay "is a delicate table wine, with an alcohol content of 9.5% by volume (745 cc @ 290C), characterized with explosion upon opening and effervescence due to CO₂ (residual)," and concluded that it should be classified as "sparkling wine." The analyst's conclusion is supported by Herstein and Jacobs who, in their book entitled "Chemistry & Technology of Wines and Liquors," wrote:

"(f) Sparkling wines are bottled before the fermentation has ceased so that they contain carbon dioxide gas in solution at greater than atmospheric pressure. When they are served, the carbon dioxide is liberated with effervescence. These gas and alcoholic contents vary according to the market for which they are intended. They may be dry or sweet, light or strong. Champagne, sparkling Burgundy, and Asti-Spumante are examples of sparkling wines."

On the basis of the analyst's report and recommendation, the Commissioner, on October 11, 1965, assessed the petitioner a deficiency specific tax on the 119 cases of imported Chatteau Gay in the sum of P11,713.90 under Section 134(a) of the Tax Code which imposes a specific tax of P12.00 per liter of volume capacity on sparkling wines.

The petitioner does not dispute the mathematical correctness of the Commissioner's assessment, but contends that the assessment is unconstitutional because Section 134(a) of the Tax Code under which it was issued lays down an insufficient and hazy standard by which the policy and purpose of the law may be ascertained and as well gives the Commissioner blanket authority to decide what is or is not the meaning of "sparkling wines." The argument is thus advanced that there is here an abdication of legislative power violative of the established doctrine, *delegata potestas non potest delegare*, and the due process clause of the Constitution.

The Commissioner disagrees on the ground that Chapter I, Title IV of the Tax Code in no uncertain terms specifies the articles subject to specific taxes, among which are wines, and Section 134 does no more than classify

wines in several categories and prescribe the corresponding amounts of tax to be paid. The Commissioner's position was sustained by the Court of Tax Appeals in its decision dated October 5, 1967.

The contention that in regard to Section 134(a) of the Tax Code there is an unconstitutional surrender of legislative powers and a failure of due process, need not give us more than a momentary pause.

Section 134 of the Tax Code provides:[1]

"Specific tax on wines. — On wines and imitation wines there shall be collected, per liter of volume capacity, the following taxes:

"(a) Sparkling wines, regardless of proof, twelve pesos.

"(b) Still wines containing fourteen per centum of alcohol or less, except those produced from casuy and duhat, one peso.

"(c) Still wines containing more than fourteen per centum of alcohol, two pesos.

"Imitation wines containing more than twenty-five per centum of alcohol shall be taxed as distilled spirits."

There can be no uncertainty that the purpose of the abovequoted provision is to impose a specific tax on wines and imitation wines. The first clause of Section 134 states so in plain language. The sole object of the sub-enumeration that follows is in turn unmistakably to prescribe the amount of the tax specifically to be paid for each type of wine and/or imitation wine so classified and described. The section therefore clearly and indubitably discloses the legislative will, leaving to the officers charged with implementation and execution thereof no more than the administrative function of determining whether a particular kind of wine or imitation wine falls in one class or another. In the performance of this function, the internal revenue officers are demonstrably guided by the sound established practices and technology of the wine industry, an industry as aged and widely dispersed as one can care to know.

In the case at bar, the Commissioner had the petitioner's wine examined and analyzed. The petitioner, on the other hand, does not appear to have made a similar effort. On the bases of the test thus made and the authoritative and published work on the subject of wines, the Commissioner ordered the corresponding deficiency assessment to be issued. Having chosen to engage in the wine trading business, the petitioner is duty bound to know the kinds of wine it deals in, particularly insofar as such knowledge may be relevant to the proper appreciation of its tax liabilities, and cannot take comfort in its pretended ignorance of what sparkling wine is.

ACCORDINGLY, the decision of the Court of Tax Appeals is affirmed, at petitioner's cost.

Makalintal, C. J. , Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] As amended by Republic Acts 56, 219, 589, 724, 955, 1090, 1335 and 2258.

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