

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. INSULAR LUMBER COMPANY AND COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-24221. December 11, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

A New York, U.S.A. corporation licensed to do business in the Philippines, Insular Lumber Company is engaged in logging operations in Fabrica, Sagay, Negros Occidental. In 1958 it purchased from Standard-Vacuum Oil Co., 292,274.76 liters of refined and manufactured oils and fuels which it subsequently used, during the same year, in its logging operations. The specific tax imposed thereon by Section 142 of the Tax Code in the amount of P21,452.42 was duly paid by Standard-Vacuum Oil Co., before their removal from the oil distillery.

On February 23, 1961 or about three (3) years later, Insular Lumber Company filed a claim with the Commissioner of Internal Revenue for the refund of the amount of P5,363.22 representing 25% of the specific tax of P21,452.42 paid by Standard-Vacuum on the aforesaid oils. The claim was predicated on the following proviso found in Section 5, Republic Act 1435:

"x x x Provided, however, That whenever any oils mentioned above are used by miners or forest concessionaires in their operations, twenty-five per centum of the specific tax paid thereon shall be refunded by the Collector of Internal Revenue upon submission of proof of actual use of oils and under similar conditions enumerated in sub-paragraphs one and two of section one hereof, amending section one hundred forty-two of the Internal Revenue Code: x x x"

On September 28, 1961 the Commissioner denied the claim for having been interposed beyond the two-year period provided for in Section 306 of the Tax Code.

On February 17, 1962, after its motion for reconsideration was denied by the Commissioner, Insular Lumber Company appealed to the Court of Tax Appeals. On January 13, 1965 the Court of Tax Appeals rendered the following judgment:

"WHEREFORE, the decision appealed from is reversed, and respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner Insular Lumber Company the amount of P5,363.22 representing 25% of the specific tax paid on the manufactured oils and fuels used by it in its logging and timber operations during the year 1958. No costs."

From said judgment, the Commissioner has appealed to this Court.

The main issue is whether or not the right to file the instant claim for refund has prescribed.

Appellant supports the affirmative view for the reason that the claim in question, which was filed on February 23, 1961, was made more than two years from 1958 - the year the tax was paid and the year the mineral oils and fuels were used - citing Sections 306 and 309 of the Tax Code, which read:

"SEC. 306. Recovery of tax erroneously or illegally collected. - No suit or proceeding shall be maintained in

any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty."

"SEC. 309. Authority of Commissioner to make compromises and to refund taxes. - The Commissioner of Internal Revenue may compromise any civil or other case arising under this Code or other law or part of law administered by the Bureau of Internal Revenue, may credit or refund taxes erroneously or illegally received, or penalties imposed without authority, and may remit before payment any tax that appears to be unjustly assessed or excessive.

"He shall refund the value of internal-revenue stamps when the same are returned in good condition by the purchaser, and may, in his discretion, redeem or exchange unused stamps that have been rendered unfit for use, and may refund their value upon proof of destruction.

"The authority of the Commissioner of Internal Revenue to credit or refund taxes or penalties under this section can only be exercised if the claim for credit or refund is made in writing and filed with him within two years after the payment of the tax or penalty."

On the other hand, appellees subscribe to the view that Sections 306 and 309, quoted above, apply to refund of taxes erroneously or illegally collected; and that since in this case the collection of the tax was not erroneous or illegal, said sections should not be applied herein. Appellees rely on *Muller & Phipps (Manila) Ltd. v. Collector of Internal Revenue*, 103 Phil. 145.

Sections 306 and 309 of the National Internal Revenue Code were intended to govern all kinds of refunds of internal revenue taxes - those taxes imposed and collected pursuant to the National Internal Revenue Code. Thus, this Court stated that "this provision", referring to Section 306, "which is mandatory, is not subject to qualification, and, hence, it applies regardless of the conditions under which payment has been made."^[1] And to hold that the instant claim for refund of a specific tax, an internal revenue tax imposed in Section 142 of the National Internal Revenue Code, is beyond the scope of Sections 306 and 309 is to thwart the aforesaid intention and spirit underlying said provisions.

Note that the case at bar is not the only instance in the Tax Code when a tax is initially collected legally, but later becomes refundable to the taxpayer by the happening of a supervening cause. Section 146 grants refund of specific tax on negative films, unprinted positive films and reversal films of sixteen millimeters or less used in amateur photography. The second paragraph of Section 182(B)(2), as amended by Republic Act 1856, allows refund of occupation tax paid in excess of the rates in effect prior to January 1, 1957. Section 53(2)(d) authorizes refund of the excess of the tax withheld at source at rates therein provided over the tax subsequently determined in the income tax return. In all those instances the law specifically subjects the refund to the provisions of Section 309. Section 142(d), as amended by Republic Act 755, allows refund of 50% of the specific tax on denatured alcohol used for motive power in agriculture and aviation during the five years from June 18, 1952. In said instance, however, like in the case at bar, the law does not state that such refund shall be subject to Section 309. Said silence notwithstanding, the intention is clear that refunds of internal revenue taxes are generally governed by Sections 306 and 309 of the Tax Code. Since in those cases the tax sought to be refunded was collected legally, the running of the two-year prescriptive period provided for in Section 306 should commence, not from the date the tax was paid, but from the happening of the supervening cause which entitled the taxpayer to a tax refund. And the claim for refund should be filed with the Commissioner of Internal Revenue,

and the subsequent appeal to the Court of Tax Appeals must be instituted, within the said two-year period.[2]

In this case, it was the use in 1958 of the manufactured mineral oils and fuels in the operation of its forest concession which gave Insular Lumber Company the right to claim refund of 25% of the specific tax paid thereon. The claim for refund was filed with the Commissioner of Internal Revenue on February 23, 1961 and the petition for review was filed in the Court of Tax Appeals on February 17, 1962. Both the aforesaid dates are more than two years after 1958, the year the oils and fuels were actually used. Consequently, the right to claim refund of the tax in question has prescribed.

The effect of the lower court's decision would be to subject the right to file a similar claim for refund with the Commissioner of Internal Revenue to a prescriptive period of ten years as provided for in paragraph (2) of Article 1144 of the Civil Code. Considering that under Section 337 of the Tax Code the taxpayer is required to keep his books and records for only five years, the Commissioner will have no way of verifying with the books and records of the taxpayer any claim filed after the fifth year. Certainly, the legislators did not intend to so handicap the Commissioner, for whose benefit the period of limitations was obviously devised.

Moreover, public policy demands that tax adjustments be made as early and expeditiously as possible. The reason is that it is on taxes that the government depends for its operation and that any uncertainty or controversy on those matters will somehow impair the smooth functioning of the governmental machinery. Lengthening, therefore, of the period of limitations on refund from two to ten years would be adverse to public policy. Finally, when our legislators codified our internal revenue laws in 1939 they intended to concentrate national tax matters in the Tax Code. For Us to look elsewhere for provisions governing taxes would be to veer away from such legislative intent.

In fine, when the tax sought to be refunded is illegally or erroneously collected, the period of prescription starts from the date the tax was paid; but when the tax is legally collected, the prescriptive period commences to run from the date of occurrence of the supervening cause which gave rise to the right of refund. The ruling in *Muller & Phipps* is accordingly modified.

WHEREFORE, the decision appealed from is reversed, and the petition for refund is dismissed on the ground of prescription. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] *Guagua Electric Light Plant Co. v. Collector of Internal Revenue and Court of Tax Appeals*, L-14421, April 29, 1961, 59 OG (Supp. 27) 4207, 4210, cited in *Gonzales v. Court of Tax Appeals and Collector of Internal Revenue*, L-14532-33, May 26, 1965.

[2] See *P.J. Kiener & Co., Ltd. v. Court of Tax Appeals*, 92 Phil. 945; *College of Oral and Dental Surgery v. Court of Tax Appeals*, 102 Phil. 912.

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