

**ALLIED THREAD CO., INC., AND KER & COMPANY, LTD.,
PETITIONERS, VS. HON. CITY MAYOR OF MANILA, HON. CITY
TREASURER OF MANILA, HON. LORENZO RELOVA, IN HIS CAPACITY
AS PRESIDING JU...**

G.R. No. L-40296. November 21, 1984

Ponente: ABAD SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5711408a397c/>

ABAD SANTOS, J.:

This is a Petition for Review challenging the decision of the then Court of First Instance of Manila presided by then Judge, now Justice Lorenzo Relova, which upheld the validity of Manila Ordinance No. 7516, as amended by Ordinance Nos. 7544, 7545 and 7556, and adjudging petitioner Allied Thread Co., Inc. taxable thereunder considering that its products are sold in Manila.

On June 12, 1974, the Municipal Board of the City of Manila enacted Ordinance No. 7516 imposing on manufacturers, importers or producers, doing business in the City of Manila, business taxes based on gross sales on a graduated basis. The Mayor approved the said Ordinance on June 15, 1974. In due time, the same ordinance underwent a series of amendments, to wit: on June 19, 1974, by Ordinance No. 7544 approved by the Mayor on the same date; Ordinance No. 7545 enacted by the Municipal Board on June 20, 1974 and approved by the Mayor on June 27, 1974; and Ordinance No. 7556, enacted by the Municipal Board on July 20, 1974 and approved by the Mayor on July 29, 1974.

Ordinance No. 7516 as amended, reads as follows:

"Sec. 1. Business Tax. - There is hereby imposed on the following business in the City of Manila an annual tax collectible quarterly except on those for which fixed taxes are already provided for as follows:

A. On manufacturers, importers, or producers of any article of commerce of whatever kind or nature, including brewers, distilled spirits and/or wines in accordance with the following schedule:

xxx xxx xxx

"PROVIDED HOWEVER, that for purposes of collection of this tax, manufacturers and producers maintaining or operating branch or sales offices elsewhere shall record the sale in the branch or sales office making the sale and the tax thereon shall accrue to the City of Manila if the branch or sales office is in Manila. In cases where there is no such branch or sales office in the city, the sale shall be duly recorded in the principal office along with the sales made in the principal office. Sixty percent of all sales recorded in the principal office shall be taxable by the City of Manila if the principal office is in Manila, while the remaining forty percent shall be deemed as sales made in the factory and shall be taxable by the local government where the factory is located.

"In cases where a manufacturer or producer has factories in Manila and in different localities, the forty percent sales allocation mentioned in the preceding paragraph shall be appropriated among the City of Manila and the localities where the factories are situated in proportion to their respective volumes of production during the

period for which the tax is due."

The records show that petitioner Allied Thread Co., Inc. is engaged in the business of manufacturing sewing thread and yarn under duly registered marks and labels. It operates its factory and maintains an office in Pasig, Rizal. In order to sell its products in Manila and in other parts of the Philippines, petitioner Allied Thread Co., Inc. engaged the services of a sales broker, Ker & Company, Ltd. (co-petitioner herein), the latter deriving commissions from every sale made for its principal.

Having been affected by the aforementioned Ordinance, being manufacturers and sales brokers, on July 22, 1974, Allied Thread Co., Inc. and Ker & Co., Ltd. filed with the defunct Court of First Instance of Manila, a petition for Declaratory Relief, contending that Ordinance No. 7516, as amended, is not valid nor enforceable as the same is contrary to Section 54 of Presidential Decree No. 426, as clarified by Local Tax Regulation No. 1-74 dated April 8, 1974 of the Department of Finance, reading as follows:

"J- GENERAL PROVISION

1. All existing tax ordinance of provinces, cities, municipalities and barrios shall be deemed ipso facto nullified on June 30, 1974.
2. The local boards or councils should enact their respective tax ordinances pursuant to the provisions of the Local Tax Code, as amended by P.D. 426, to take effect not earlier than July I, 1974.
3. Pursuant to the provisions of Section 42 of the Code, as amended by Section 18 of the said Decree, a local tax ordinance shall go into effect on the 15th day after approved by the local chief executives in accordance with Section 41 of the Code.
4. In view hereof, and considering the provisions of Section 54 of the Code, regarding the accrual of taxes a local tax ordinance intended to take effect on July I, 1974 should be enacted by the Local Chief Executive not later than June 15, 1974" (Italics supplied)

Otherwise stated, petitioners assert that due to the series of amendments to Ordinance No. 7516, the same Ordinance fell short of the deadline set by Sec. 54 of P.D. No. 426 that "for an ordinance intended to take effect on July 1, 1974, it must be enacted on or before June 15, 1974." Necessarily, so it is asserted, the said Ordinance No. 7516 as amended, is not valid nor enforceable.

Petitioners further contend that the questioned Ordinance did not comply with the necessary publication requirement in a newspaper of general circulation as mandated by Sec. 43 of the Local Tax Code. Petitioner Allied Thread Co., Inc. also claims that it should not be subjected to the said Ordinance No. 7516 as amended, because it does not operate or maintain a branch office in Manila and that its principal office and factory are located in Pasig, Rizal.

We agree with the decision of the then Court of First Instance of Manila, upholding the validity of Ordinance No. 7516 as amended, and finding petitioner Allied Thread Co., Inc. the proper subject thereto.

There is no dispute that Ordinance No. 7516 was enacted by the Municipal Board of Manila on June 12, 1974 and approved by the City Mayor on June 15, 1974. Fifteen (15) days thereafter, or on July 1, 1974, the said ordinance became effective pursuant to Sec. 42 of the Local Tax Code. It is clear therefore that Ordinance No. 7516 has fully conformed with P.D. No. 426 and Local Tax Regulation No. 1-74 which require that "a local tax ordinance intended to take effect on July 1, 1974 should be enacted by the Local Chief Executive not later than June 15, 1974." The subsequent amendments to the basic ordinance did not in any way invalidate it nor move the date of its effectivity. To hold otherwise would limit the power of the defunct Municipal Board of Manila to amend an existing ordinance as exigencies require.

Petitioners complain that they were not fully apprised of the enactment of Ordinance No. 7516 for the same was not duly published in a newspaper of general circulation. Respondents argue however, that copies of Ordinance No. 7516 and its amendments were posted in public buildings, government offices, and public places in lieu of publication in newspaper of general circulation.

We are persuaded that there was substantial compliance of the law on publication. Section 43 of the Local Tax Code provides two modes of apprising the public of a new ordinance, either, (a) by means of publication in a newspaper of general circulation or, (b) by means of posting of copies thereof in the local legislative hall or premises and two other conspicuous places within the territorial jurisdiction of the local government. Respondents, having complied with the second mode of notice. We are of the opinion that there is no legal infirmity to the validity of Ordinance No. 7516 as amended.

Finally, petitioner Allied Thread Co., Inc. claims exclusion from Ordinance No. 7516 as amended on the ground that it does not maintain an office or branch office in the City of Manila, where the subject Ordinance only applies. This contention is devoid of merit. Allied Thread Co., Inc. admits that it does business in the City of Manila through a broker or agent, Ker & Company, Ltd. Doing business in the City of Manila is all that is required to fall within the coverage of the Ordinance.

It should be noted that Ordinance No. 7516 as amended imposes a business tax on manufacturers, importers or producers doing business in the City of Manila. The tax imposition here is upon the performance of an act, enjoyment of a privilege, or the engaging in an occupation, and hence is in the nature of an excise tax.

The power to levy an excise upon the performance of an act or the engaging in an occupation does not depend upon the domicile of the person subject to the excise, nor upon the physical location of the property and in connection with the act or occupation taxed, but depends upon the place in which the act is performed or occupation engaged in.

Thus, the gauge for taxability under the said Ordinance No. 7516 as amended does not depend on the location of the office, but attaches upon the place where the respective sale transactions) is perfected and consummated. (See *Koppel (Phil.) vs. Yatco*, 77 Phil. 496 [1946]). Since Allied Thread Co., Inc. sells its products in the City of Manila through its broker, Ker & Company, Ltd., it cannot escape the tax liability imposed by Ordinance No. 7516 as amended.

WHEREFORE, the petition is hereby dismissed for lack of merit. Costs against the petitioners.

SO ORDERED.

Fernando, C.J., Makasiar, Aquino, Concepcion Jr., Melencio- Herrera, Plana, Escolin, Gutierrez, Jr., de la Fuente, and Cuevas, JJ., concur.

Teehankee and Relova, JJ., took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.