MANILA PRESS, INCORPORATED, PLAINTIFF AND APPELLANT, VS. MARCELINO SARMIENTO, AS CITY TREASURER OF THE CITY OF MANILA, DEFENDANT AND APPELLEE.

G.R. No. L-7902. May 11, 1956

Ponente: LABRADOR, J.

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LABRADOR, J.:

This action was instituted in the Court of First Instance of Manila to recover the sum of P4,983, which is claimed to have been, illegally collected by defendant-appellee City Treasurer of Manila from the plaintiff-appellant. It appears (from the stipulation of facts submitted before the trial court) that prior to 1951, plaintiff-appellant had city licenses for three forms of business, namely, retail, wholesale and printing. In 1951, plaintiff-appellant transferred its printing press from Manila to Grace Park, Caloocan, Rizal, but it continued accepting printing jobs from its customers at its place of business, 436-440 Nueva street, Manila. In 1951 and 1952 he paid the license fee corresponding to retail dealers under Group 2 of Ordinance No. 1925, as amended by Ordinances Nos, 3028 and 3364, of the City of Manila. The quarterly license fee for retail dealers is made to depend upon the volume of quarterly gross sales.

During the same period of tyne, 1951 and 1952, it received orders for the printing of stationeries and office supplies from its customers and caused the printing work to be done at its plant in Caloocan, Rizal. It paid for this business the.quarterly license fee provided for in Group 5 of said Ordinance No. 1925, as amended, of the City of Manila. The defendant-appellee taxed plaintiff-appellant as a retail dealer of papers, books and stationeries, insofar as these printing contracts it performed for its customers is concerned, and assessed the license fee for the plaintiff-appellant on the basis of his gross receipts under Group 2 of the ordinance. Plaintiff-appellant objected to this assessment, and brought this action to recover the taxes it paid, claiming that in performing the printing job contracts for its various customers it was merely performing the business of printing and is subject to tax under Group 5. The court below sustained the assessment made by defendant-appellee City Treasurer of Manila, overruling plaintiff- appellant's contention. Hence, this appeal.

Ordinance .No. 1925, as amended, of the City of Manila, fixes a quarterly license fee for retail dealers of papers, books and stationery at the following amounts:

> "Group 2.—Retail dealers in new (not yet used) merchandise, which dealers are not yet subject to the payment of any municipal tax, such as: (1) Retail dealers in General Merchandise and (2) retail dealers exclusively engaged in the sale of electrical supplies: sporting goods; office equipment and materials; rice; textile including knitted wares; hardwares, including glasswares; cooking utensils and construction materials; papers; books, including stationery :

Class

Quarterly gross sales

Quarterly license fee

1 .....

Over P125,000.00

P1,250.00

2 .....

P100,000.00 to 125,000.00

1,125.00

3 .....

90,000.00 to 99,999.00

1,000.00

4 .....

80,000.00 to 89,999.99

900.00

5 .....

70,000.00 to 79,999.99

800.00

6 .....

60,000.00 to 69,999.99

700.00

7 .....

50,000.00 to 59,999.99

600.00

8 .....

45,000.00 to 49,999.99

500.00

9 .....

40,000.00 to 44,999.99

450,00

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The same ordinance fixes the quarterly license fee for printers, including the sale of printing materials or bookbinders, or both as follows:

"Group 5.—Printers, including the sale of printing materials of bookbinders, or both:

Class

Quarterly Gross Sales

Quarterly license fee

1 .....

Over P4,500.00

P50.00

2 .....

P4,400.00 to 4,500.00

45.00

3 .....

3,900.00 to 4,399.99

42.00

4 .....

3,650.00 to 3,899.99

39.00

* * * *

In the years 1951 and 1952 plaintiff-appellant realized the following gross receipts for the printing jobs performed by it for its customers:. 1951, 1st quarter, P68,820; 2nd quarter, P50,024; 3rd quarter, f»48,923; 4th quarter, P110,116. 1952, 1st quarter, P66,495; 2nd quarter, P40,373.31; 3rd quarter, P43,518.53; 4th quarter, F89,763.32. The issue presented is whether plaintiff-appellant should be considered as a retail dealer in paper, stationeries and office supplies for the printing and sale of the paper, stationeries and office supplies of its customers, under Group 2, or merely acted in the printing of said stationeries and office supplies, as a printer under Group 5. There is no question that as to books, papers, stationeries and office supplies on which no printing work was performed, plaintiff-appellant merely acted as a retail dealer, subject to tax under Group 2. But when it printed on such papers, stationeries and office supplies the names of its customers,, it acted merely as a printer and the receipts from them for the stationeries and office supplies on which customer's names were printed were not receipts for the sales of a retail dealer, but receipts of a printer. In doing the work plaintiff-appellant's principal service was that of a printer and not that of a retail dealer. The value of the printing work done is considerably more than that of the material used for printing, and although there is also a sale of the paper and material on which the printing job is done,. this is a mere incident of the service, the nature of the transaction being determined by the principal purpose^ which is that of printing, and not by the incidental sale. This is the consensus of authority.

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> "A printer furnishing special printed matter upon order from customers, such as letterheads, circulars, mail-order catalogs and printed brief for attorneys, is not engaged in the business of selling tangible personal property at retail, but in the business of printing— one of the graphic arts. Such persons, in carrying out their contracts of service actually destroy the commercial value of the personal property they furnished their customers, that is, plain paper, since thereafter such paper is of no use or value to any person. other than the one for whom the printing is done. (47 Am. Jur.f p. 237.)

We hold, therefore, that in doing printing jobs on papers, stationeries and office supplies for its customers during the years 1951 and 1952, as above set forth, plaintiff-appellant was performing the business of a printer under Group 5 of the Manila City ordinance, and not that of a retail dealer under Group 2 thereof.

The mere fact that plaintiff-appellant's printing plant is not situated in the City of Manila but in the province of Rizal does not convert the plaintiff-appellant into a retail dealer as to printing jobs performed by it for its customers. It is to be noted that plaintiff-appellant does not question its liability to the ordinance under Group 5 as the office where it conducts its business with its customers is withii. the City of Manila, and, therefore, the question as to whether or not it should not be subject to this license fee under the city ordinance because its printing plant is not located in the city, is not in issue before Us.

The judgment appealed from is hereby reversed and the defendant-appellee is hereby ordered to refund or return to plaintiff-appellant the amount of P4,983 demanded in the action. Without costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angela, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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