

LUZON STEVEDORING CORPORATION, PETITIONER-APPELLANT, VS. COURT OF APPEALS AND THE HONORABLE COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS-APPELLEES.

G.R. No. L-30232. July 29, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review of the October 21, 1968 Decision[*] of the Court of Tax Appeals in CTA Case No. 1484, “Luzon Stevedoring Corporation v. Hon Ramon Oben, Commissioner, Bureau of Internal Revenue”, denying the various claims for tax refund; and the February 20, 1969 Resolution of the same court denying the motion for reconsideration.

Herein petitioner-appellant, in 1961 and 1962, for the repair and maintenance of its tugboats, imported various engine parts and other equipment for which it paid, under protest, the assessed compensating tax. Unable to secure a tax refund from the Commissioner of Internal Revenue, on January 2, 1964, it filed a Petition for Review (Rollo, pp. 14-18) with the Court of Tax Appeals, docketed therein as CTA Case No. 1484, praying among others, that it be granted the refund of the amount of P33,442.13. The Court of Tax Appeals, however, in a Decision dated October 21, 1969 (*Ibid.*, pp. 22-27), denied the various claims for tax refund. The decretal portion of the said decision reads:

“WHEREFORE, finding petitioner’s various claims for refund amounting to P33442.13 without sufficient legal justification, the said claims have to be, as they are hereby, denied. With costs against petitioner.”

On January 24, 1969, petitioner-appellant filed a Motion for Reconsideration (*Ibid.*, pp 28-34), but the same was denied in a Resolution dated February 20, 1969 (*Ibid.*, p. 35). Hence, the instant petition.

This Court, in a Resolution dated March 13, 1969, gave due course to the petition (*Ibid.*, p. 40).

Petitioner-appellant raised three (3) assignments of error, to wit:

I

The lower court erred in holding that the petitioner-appellant is engaged in business as stevedore, the work of unloading and loading of a vessel in port, contrary to the evidence on record.

II

The lower court erred in not holding that the business in which petitioner-appellant is engaged, is part and parcel of the shipping industry.

III

The lower court erred in not allowing the refund sought by petitioner-appellant.

The instant petition is without merit.

The pivotal issue in this case is whether or not petitioner's "tugboats" can be interpreted to be included in the term "cargo vessels" for purposes of the tax exemption provided for in Section 190 of the National Internal Revenue Code, as amended by Republic Act No. 3176.

The said law provides:

"Sec. 190. Compensating tax.— . . . And Provided further, That the tax imposed in this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax or those for consignment abroad and are to form part thereof or to articles to be used by the importer himself as passenger and/or cargo vessels, whether coastwise or oceangoing, including engines and spare parts of said vessel. . . ."

Petitioner contends that tugboats are embraced and included in the term cargo vessel under the tax exemption provisions of Section 190 of the Revenue Code, as amended by Republic Act No. 3176. He argues that in legal contemplation, the tugboat and a barge loaded with cargoes with the former towing the latter for loading and unloading of a vessel in part, constitute a single vessel. Accordingly, it concludes that the engines, spare parts and equipment imported by it and used in the repair and maintenance of its tugboats are exempt from compensating tax (Rollo, p. 23).

On the other hand, respondents-appellees counter that petitioner-appellant's "tugboats" are not "cargo vessels" because they are neither designed nor used for carrying and/or transporting persons or goods by themselves but are mainly employed for towing and pulling purposes. As such, it cannot be claimed that the tugboats in question are used in carrying and transporting passengers or cargoes as a common carrier by water, either coastwise or oceangoing and, therefore, not within the purview of Section 190 of the Tax Code, as amended by Republic Act No. 3176 (Brief for Respondents-Appellees, pp. 4-5)

This Court has laid down the rule that "as the power of taxation is a high prerogative of sovereignty, the relinquishment is never presumed and any reduction or diminution thereof with respect to its mode or its rate, must be strictly construed, and the same must be coached in clear and unmistakable terms in order that it may be applied." (84C.J.S. pp. 659-800) More specifically stated, the general rule is that any claim for exemption from the tax statute should be strictly construed against the taxpayer (Acting Commissioner of Customs v. Manila Electric Co. et al., 69 SCRA 469 [1977] and Commissioner of Internal Revenue v. P.J. Kiener Co. Ltd., et al., 65 SCRA 142 [1975]).

As correctly analyzed by the Court of Tax Appeals, in order that the importations in question may be declared exempt from the compensating tax, it is indispensable that the requirements of the amendatory law be complied with, namely: (1) the engines and spare parts must be used by the importer himself as a passenger and/or cargo vessel; and (2) the said passenger and/or cargo vessel must be used in coastwise or oceangoing navigation (Decision, CTA Case No. 1484; Rollo, p. 24).

As pointed out by the Court of Tax Appeals, the amendatory provisions of Republic Act No. 3176 limit tax exemption from the compensating tax to imported items to be used by the importer himself as operator of passenger and/or cargo vessel (Ibid., p. 25).

As quoted in the decision of the Court of Tax Appeals, a tugboat is defined as follows:

“A tugboat is a strongly built, powerful steam or power vessel, used for towing and, now, also used for attendance on vessel. (Webster New International Dictionary, 2nd Ed.)

“A tugboat is a diesel or steam power vessel designed primarily for moving large ships to and from piers for towing barges and lighters in harbors, rivers and canals. (Encyclopedia International Grolier, Vol. 18, p. 256).

“A tug is a steam vessel built for towing, synonymous with tugboat. (Bouvier’s Law Dictionary.)” (Rollo, p. 24).

Under the foregoing definitions, petitioner’s tugboats clearly do not fall under the categories of passenger and/or cargo vessels. Thus, it is a cardinal principle of statutory construction that where a provision of law speaks categorically, the need for interpretation is obviated, no plausible pretense being entertained to justify non-compliance. All that has to be done is to apply it in every case that falls within its terms (Allied Brokerage Corp. v. Commissioner of Customs, L-27641, 40 SCRA 555 [1971]; Quijano, etc. v. DBP, L-26419, 35 SCRA 270 [1970]).

And, even if construction and interpretation of the law id insisted upon, following fundamental rule that statutes ate to be construed in the light of purposes to be achieved and the evils sought to be remedied (People v. Purisima etc., et al., L-42050-66, 86 SCRA 544 [1978]), it will be noted that the legislature in amending Section 190 of the Tax Code by Republic Act 3176, as appearing in the records, intended to provide incentives and inducements to bolster the shipping industry and not the business of stevedoring, as manifested in the sponsorship speech of Senator Gil Puyat (Rollo, p. 26).

On analysis of petitioner-appellant’s transactions, the Court of Tax Appeals found that no evidence was adduced by petitioner-appellant that tugboats are passenger and/or cargo vessels used in the shipping industry as an independent business. On the contrary, petitioner-appellant’s own evidence supports the view that it is engaged as a stevedore, that is, the work of unloading and loading of a vessel in port; and towing of barges containing cargoes is a part of petitioner’s undertaking as a stevedore. In fact, even its trade name is indicative that its sole and principal business is stevedoring and lighterage, taxed under Section 191 of the National Internal Revenue Code as a contractor, and not an entity which transports passengers or freight for hire which is taxed under Section 192 of the same Code as a common carrier by water (Decision, CTA Case No. 1484; Rollo, p. 25).

Under the circumstances, there appears to be no plausible reason to disturb the findings and conclusion of the Court of Tax Appeals.

As a matter of principle, this Court will not set aside the conclusion reached by an agency such as the Court of Tax Appeals, which is, by the very nature of its function, dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject unless there has been an abuse or improvident exercise of authority (Reyes v. Commissioner of Internal Revenue, 24 SCRA 199 [1968]), which is not present in the instant case.

PREMISES CONSIDERED, the instant petition is DISMISSED and the decision of the Court of Tax Appeals is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Sarmiento, JJ., concur.

[*] Penned by Associate Judge Estanislao R. Alvarez, and concurred in by Presiding Judge Roman M. Umali and Associate Judge Ramon L. Avancena.

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