

MARLI PLYWOOD & VENEER CORPORATION, PETITIONER, VS. JOSE ARANAS, AS COLLECTOR OF INTERNAL REVENUE, AND THE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-14930. September 30, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

Marli Plywood and Veneer corporation, holder of a certificate of exemption as a new and necessary industry (plywood manufacturing business), seeks the review of the decision of the Court of Tax Appeals denying its petition for refund of the sum of P4,774.58 paid by it to the respondent Collector of Internal Revenue as compensating tax in connection with its importation of a "Yanmar" marine diesel engine and air compressor.

There is no disagreement between the parties as to the fact that petitioner's plywood-manufacturing business, having been declared a new and necessary industry, was exempted from payment of certain internal revenue taxes. The tax-exemption certificate issued by the Secretary of Finance in favor of petitioner, among others, provides:

"The exemption herein intended refers to the following taxes directly payable by you in respect to the above-mentioned industry:

* * * * *

"3. The compensating tax on machinery and equipment to be used exclusively in the new and necessary industry.

* * * * *

(Italics supplied.)

Similarly, there is no question that the machinery involved herein were actually installed in the boat "Marli II," belonging to petitioner, used exclusively to transport its manufactured products from its factory in Bayawan, Negros Oriental, which is not a port of call, to Cebu or Manila, and to bring, in its return trips, fuels and stocks for use in the factory.

Petitioner contends that upon these undisputed facts the imported machineries come within the exemption because marketing of the finished products is essential to the exemption of plywood-manufacturing.

We agree with the Court of Tax Appeals that this is not so. The exemption (which should be interpreted strictly as all exceptions) clearly refers only to "machinery and equipment to be used exclusively in the new and necessary industry," not merely in connection therewith. The industry exempted is the manufacture of plywood. As far as this business is concerned, it is fully accomplished with the turning out or production of the finished articles. With or without petitioner's owning any transportation facility, the tax-exempt industry could be operated. As a matter of fact, the transportation activity was commenced only in 1956 although petitioner was already in the business

since 1953. In other words, the operation of the transportation, while it may bring convenience and economy to petitioner,[1] is not indispensable to, or form a part of the business of, manufacturing plywood.[2] This is certainly not the use or purpose for which the exemption was granted. For the privilege to be availed of, it must be shown that the imported machinery or equipment is directly necessary, not merely incidental, to the operation of the industry itself.[3]

In view of the foregoing, we affirm the decision appealed from, with costs against the petitioner. So ordered.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Apparently, there are some means of transportation available to petitioner, only it complains that the expenses add much to the cost of production.

[2] See Collector of Internal Revenue vs. Marcelo Steel Corporation, et al., 100 Phil., 271; 53 Off. Gaz., (3) 674.

[3] Lu Do & Lu Ym Corporation vs. Central Bank, 108 Phil., 566.

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