REPUBLIC FLOUR MILLS, INC., PETITIONER, VS. THE COMMISSIONER OF CUSTOMS AND THE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-28463. May 31, 1971

Ponente: FERNANDO, J.

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FERNANDO, J.:

It is a novel question that this petition for the review of a decision of respondent Court of Tax Appeals presents. Petitioner Republic Flour Mills, Inc. would have this Court construe the words "products of the Philippines" found in Section 2802 of the Tariff and Customs Code[1] as excluding bran (ipa) and pollard (darak) on the ground that, coming as they do from wheat grain which is imported in the Philippines, they are merely waste and not the product, which is the flour produced.[2] That way, it would not be liable at all for the wharfage dues assessed under such section by respondent Commissioner of Customs. It elevated the matter to respondent Court, but was unsuccessful. The same fate is in store for it, as the construction it would place on the aforesaid section appears too strained and far remote from the ordinary meaning of the text, not to mention the policy of theAct. We affirm.

In the decision of respondent Court now sought to be reviewed, after stating that what was before it was an appeal from a decision of the Commissioner of Customs holding petitioner liable for the sum of P7,948.00 as wharfage dues, the facts were set forth as follows: "Petitioner, Republic Flour Mills, Inc., is a domestic corporation, primarily engaged in the manufacture of wheat flour, and produces pollard (darak) and bran (ipa) in the process of milling. During the period from December, 1963 to July, 1964, inclusive, petitioner exported pollard and/or bran which was loaded from lighters alongside vessels engaged in foreign trade while anchored near the breakwater. The respondent assessed the petitioner by way of wharfage dues on the said exportations in the sum of P7,948.00, which assessment was paid by petitioner under protest"[3] The only issue, in the opinion of respondent Court, is whether or not such collection of wharfage dues was in accordance with law. The main contention before respondent Court of petitioner was "that inasmuch as no government or private wharves or government facilities [were] utilized in exporting the pollard and/ or bran, the collection of wharfage dues is contrary to law. "[4] On the other hand, the stand of respondent Commissioner of Customs was that petitioner was liable for wharfage dues "upon receipt or discharge of the exported goods by a vessel engaged in foreign trade regardless of the non-use of government-owned or private wharves."[5] Respondent Court of Tax Appeals sustained the action taken by the Commissioner of Customs under the appropriate provision of the Tariff and Customs Code, relying on our decision in Procter & Gamble Phil. Manufacturing Corp. v. Commissioner of Customs.[6] It did not feel called upon to answer the question now before us as, in its opinion, petitioner only called its attention to it for the first time in its memorandum.

Hence, this petition for review. The sole error assigned by petitioner is that it should not, under its construction of the Act, be liable for wharfage dues on its exportation of bran and pollard as they are not "products of the Philippines," coming as they did from wheat grain which were imported from abroad, and being "merely parts of

the wheat grain milled by Petitioner to produce flour which had become waste. "[7] We find, to repeat, such contention unpersuasive and affirm the decision of respondent Court of Tax Appeals.

- The language of Section 2802 appears to be quite explicit: "There shall be levied, collected and paid on all articles imported or brought into the Philippines, and on products of the Philippines - * *exported from the Philippines, acharge of two pesos pergross metric ion as a fee for wharfage * * *." One category refers to what is imported. The other mentions products of the Philippines that are exported. Even without undue scrutiny, it does appear quite obvious that as long as the goods are produced in the country, they fall within the terms of the above section. Petitioner appeared to have entertained such a notion. In its petition for review before respondent Court it categorically asserted: "Petitioner is primarily engaged in the manufacture of flour from wheat grain. In the process of milling the wheat grain into flour, petitioner also produces 'bran' and 'pollard' which it exports abroad."[8] It does take a certain amount of hair-splitting to exclude from its operation what petitioner calls '"waste" resulting from the production of flour processed from the wheat grain in petitioner's flour mills in the Philippines. It is always timely to remember that, as stressed by Justice Moreland: "The first and fundamental duty of courts, in our judgment is to apply the law. Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them."[9] Petitioner ought to have been aware that deference to such a doctrine precludes an affirmative response to its contention. The law is clear; it must be obeyed. It is as simple as that.[10]

- There is need of confining familiar language of a statute to its usual signification. While statutory construction involves the exercise of choice, the temptation to roam at will and rely on one's predilections as to what policy should prevail is to be resisted. The search must be for a reasonable interpretation. It is best to keep in mind the reminder from Holmes that "there is no canon against using common sense in construing laws as saying what they obviously mean."[11] To paraphrase Frankfurter, interpolation must be eschewed but evisceration avoided. Certainly, the utmost effort should be exerted lest the interpretation arrived at does violence to the statutory language in its total context. It would be then to ignore what has been stressed time and time again as to the limits of judicial freedom in the construction of statutes to accept the view advanced by petitioner.

- Then, again, there is the fundamental postulate in statutory construction requiring fidelity to the legislative purpose. What Congress intended is not to be frustrated. Its objective must be carried out. Even if there be doubt as to the meaning of the language employed, the interpretation should not be at war with the end sought to be attained. No undue reflection is needed to show that if through an ingenious argument, the scope of a statute may be contracted, the probability that other exceptions may be thought of is not remote. If petitioner were to prevail, subsequent pleas motivated by the same desire to be excluded from the operation of the Tariff and Customs Code would likewise be entitled to sympathetic consideration. It is desirable then that the gates to such efforts at undue restriction of the coverage of the Act be kept closed. Otherwise, the end result would be not respect for, but defiance of, a clear legislative mandate. That kind of approach in statutory construction has never recommended itself. It does not now.[12]

WHEREFORE, the decision of respondent Court of Tax Appeals of November 27,1967 is affirmed. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, Teehankee and Barredo, JJ., took no part.

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[1] Section 2802 of the Tariff and Customs Code (1957) reads in full: "Schedule of Dues.- There shall be levied, collected and paid on all articles imported or brought into the Philippines, and on products of the Philippines except coal, lumber, creosoted and other pressure treated materials as well as other minor forest products, cement, guano, natural rock asphalt, the minerals and ores of base metals (e.g., copper, lead, zinc, iron, chromite, manganese, magnesite and steel), and sugar molasses, exported from the Philippines, a charge of two pesos per gross metric ton as a fee for wharfage: Provided, That in the case of logs, of flitches twelve inches square or equivalent cross-sectional area, or over, a charge of sixty centavos per cubic meter shall be collected."

[2] According to the petition: "(a) Petitioner is engaged in the manufacture of flour from wheat grain. It imports the wheat grain from abroad and mills the same to produce the flour. The wheat grain is not a product of the Philippines. Properly and technically speaking, the product of the milling process is the flour produced, (b) In the course of producing flour, part of the wheat grain becomes waste in the form of bran,and pollard. " Par. 4, p. 2.

[3] Decision, Appendix to Petitioner's Brief, pp. 9-10.

[4] Ibid., p. 10.

[5] Ibid.

[6] L-22819, April 27,1967,19 SCRA 883. This portion of Justice Bengzon's opinion was cited in the opinion of respondent Court of Tax Appeals: "But when a vessel anchors at the Bay and discharges or unloads its cargo, wharfage dues are forthwith collected. For, as stated, said dues, are assessed against the cargo discharged. This is clear from the provision of the law under which the assessment is based on the quantity, weight or measure of the cargo received by the importer and/or discharged by such vessel. And wharfage dues on the cargo are distinct from harbor fees or berthing charges on the vessel, so much so that different sections of the law cover them." At p. 889.

[7] Decision, Appendix to Petitioner's Brief, p. 7.

[8] Petition for Review before respondent Court of Tax Appeals dated April 7,1967, par. 3.

[9] Lizarraga Hermanos v. Yap Tico, 24 Phil. 504, 515(1913).

[10] Cf. People v. Mapa, L-22301, Aug. 30, 1967, 20 SCRA 1164; Pacific Oxygen & Acetylene Co. v. Central Bank, L-21881, March 1,1968,22 SCRA 917; Dequito v. Lopez, L-27757, March 28,1968,22 SCRA 1352; Padilla v. City of Pasay, L-24039, June 29,1968,23 SCRA 1843; Garcia v. Vasquez, L-26808, March 28, 1969, 27 SCRA 505; La Perla Cigar & Cigarette Factory v. Capapas,L-27948 & 28001-11, July 31,1969,28 SCRA 1085; Mobil Oil Phil., Inc. v. Diocares, L-26371, Sept. 30,1968,29 SCRA 656; Luzon Surety Co., Inc. v. De Garcia, L-25659, Oct. 31,1969, 30 SCRA 111; Vda. de Macabema v. Davao Stevedore Terminal Company, L-27489, April 30,1970, 32 SCRA 553.

[11] Roschen v. Ward, 279 US 337, 339 (1929).

[12] Cf. Ty Sue v. Hord, 12-Phil. 485 (1909); UnitedStates v.Toribio, 15PhiL 85 (1910); Riera v. Palmaroli, 40 Phil. 105 (1919); Commissioner of Customs v. Caltex Phil., Inc., 106 Phil. 829 (1959); Sarcos v. Castillo, L-29755, Jan. 31,1969,26 SCRA 853; Automotive Parts & Equipment Co., Inc. v. Lingad, L-26406, Oct. 31,1969, 30 SCRA 248.

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