

**LA COMPAÑIA GENERAL DE TABACOS, PLAINTIFF AND APPELLEE,
VS. THE CITY OF MANILA, DEFENDANT AND APPELLANT.***G.R. No. L-4393. January 08, 1909*

Ponente: TORRES, J.

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On the 21st of March, 1905, counsel for the Compañia General de Tabacos filed a written complaint against the city of Manila, claiming the refund of the sum of P88,698, illegally collected from said company, together with legal interest thereon from April 13, 1904, until the same should be settled; the company also claimed the return of P45,746.97, with legal interest thereon, which it had paid in excess taxes; at the close of the trial, the Court of First Instance rendered judgment on the 11th of September of said year, and sentenced the defendant city of Manila to refund the first-mentioned amount, with legal interest thereon from the date of the complaint with the costs; as to the second amount claimed, the defendant was absolved, because it was not shown that the plaintiff had paid it to the defendant city.

The defendant excepted to the above judgment, and this court, on February 14, 1907, reversed the same and directed that a new trial be held in order that the plaintiff might prove which portion of the so-called illegal taxes had been actually collected and received by the city of Manila.

The case was reopened, and the new trial held in the court below on the 5th of June, 1907; the testimony of witnesses was taken, and the documents marked A, B, C, D, and E, exhibited by the plaintiff, to which the adverse party objected, were made of record, and the trial judge, rendered a new judgment on the 28th of September, 1907, ordering the city of Manila to pay the Compañia General de Tabacos the sum of P88,698 with legal interest thereon from the 13th of April, 1904, and costs. To said judgment the defendant excepted and in addition moved for a new trial; the motion being overruled, the petitioner also excepted, and the bill of exceptions was presented and approved on the 22d of October, 1907,

In order to be able to declare as unjust the collection and payment of the sum of P88,698, the refund of which is herein claimed, it becomes necessary to ascertain whether the plaintiff company did unduly, and for a second time pay the said amount after having already paid it or whether it was compelled to do so without the existence of any legal provision authorizing such collection, or to compel it to pay the same, either as a tax on its profits, or as an industrial tax.

The matter at issue is the industrial tax established in this country under the general regulation approved by the royal order of June 19, 1890, which regulation, together with its tariffs, was enforced until the 1st of July, 1904, when it was repealed by Act No. 1189 of the Commission, dated July 2 of the said year; and based on the provisions of the said regulation, the return of that sum, which the plaintiff company had paid as a tax of 5 per cent on the profits of its business during the years 1901, 1902, and 1903, is demanded in the complaint. The action is brought against the city of Manila, notwithstanding the fact that the amount was paid to the Collector of Internal Revenue, or the Administrador de Hacienda Publica for the reason that the money was turned over to the

municipal treasury of Manila.

It is absolutely necessary for the proper settlement of this litigation, that it be effectively shown that, according to the terms and provisions of the aforesaid regulation, the taxes denominated therein as industrial, urbana, and tax on profits, are separate and entirely distinct taxes, involving diverse conceptions and meanings in their administrative economic consequences and effects, without it being possible ever to confuse them or mistake the one for the other, because the taxpayer, who is compelled to pay one or all of them, can in no manner evade their imposition and payment by "computation," except in the manner prescribed and authorized by the said regulation.

The generic denomination of the various taxes therein established is industrial taxation, but the general conception of the tax does not exclude the diversity and special nature of its imposition on each of the various branches of industry, commerce, professions¹, arts or occupation, according to their respective classification in the tariffs. (Articles 1 and 22 of the regulation.)

Although the 5 per cent tax on the net profits, which banks and joint-stock companies were obliged to pay, is a tax of an industrial character, it can not in any way be mistaken for the other industrial taxes mentioned in the general rules and enumerated in the tariffs. Hence, a taxpayer who has paid the said tax of 5 per cent can not allege exemption from payment of the industrial tax for carrying on the industry or commerce in which he is engaged. Article 23 of the aforesaid general rules reads:

"Unless otherwise provided for, the person carrying on in the same premises, shop or store, two or more industries, trades or businesses included in the same tariff, will pay tax on the one subject to the higher rate; if the industries, trades or businesses should be governed by different tariffs, the taxpayer will be required to obtain a license for the highest taxable industry, trade or business, in each tariff, in which he may be engaged.

"If the industries are carried on in separate stores, shops or premises, tax chargeable to the different industries will be collected, even if they should belong to the same tariff."

The plaintiff acknowledges that, as a joint-stock company, according to the said general rules, it was obliged to pay 5 per cent tax on the net profits distributed to its stockholders, in accordance with its respective balance sheets, under the provisions of paragraph 4 of tariff 1 of the industrial tax, the said company not being one of those exempted by No. 58 of the table of exemptions.

The plaintiff also acknowledges that, as a corporation or a joint-stock company, it was under obligation to pay the tax indicated in the said tariff by reason of the commerce or industry carried on by it through its branch offices or agencies in the different provinces of this archipelago, as prescribed in the respective tariff, class, number, rate and item.

The plaintiff likewise acknowledges that it was obliged to pay the city tax (*contribucion urbana*), and subsequently, upon the abolishment of the latter by Act No. 183 of July 30, 1901, the land tax on the real estate in its possession, although, according to the note at foot of the said paragraph 4 of tariff 1, the city tax which banks and mercantile associations have paid on their realty, is to be computed as a part of the tax collectible on their dividends.

On these suppositions, what was the motive for the claim set up by the *Compañia General de Tabacos* against the city of Manila, into whose treasury the money was paid, and, as claimed, improperly paid?

The motive is, and this is the question set up by the plaintiff, that in its opinion, in the amount of the 5 per cent tax imposed upon its dividends, there should be computed, not only the total urbana tax, and subsequently the land tax paid in lieu thereof, but also the amount of the industrial tax paid by it in the provinces through its agencies or branch offices, alleging that, as a joint-stock company or corporation, it should pay but one tax only; that,

therefore, in addition to the urbtma tax, the total industrial tax paid by it for carrying on commerce and industries in several provinces of the Archipelago should be computed in the 5 per cent paid on the net profits. The plaintiff has not cited any article of the regulation which authorizes this last computation.

Before proceeding further, and before inquiring whether or not the Compailia General de Tabacos has any legal foundation for its claim, it should be stated that the municipality of the city of Manila was only constituted and established on the 7th of August, 1901; therefore, the latter can not be held responsible for sums collected, although improperly, by its predecessor prior to that date, and that notwithstanding the fact that such sums were ultimately deposited in its treasury, the truth is that the money was actually paid to the Administracion de Hacienda Publica or the Collector of Internal Revenue of Manila, upon an examination of the annual reports, accounts, and balance sheets of the taxpaying company, without any intervention on the part of the municipality. (Article 36 of the General Rules.)

Upon an examination of the one hundred and eleven articles of this regulation, the only law applicable in this case, the seven tariffs with their respective explanations, and the table of exemptions attached to the said regulation, we fail to find anything which provides either explicitly or by implication for the alleged computation of the total amount of the industrial tax paid by the plaintiff company in the 5 per cent tax on the net profits to its stockholders, so that the said company should pay the Government but one sole tax which is the 5 per cent tax alluded to and that as, according to the law, the city tax and subsequently the land tax was also computable in this tax, by a wide and liberal interpretation of the regulation this new tax should also be computed in the aforesaid tax of 5 per centum.

The theory of a sole tax probably pursued by the plaintiff, dreamed of by some of the economists and financiers of the civilized world, does not appear to have been adopted in any part of the said regulation of which articles 8, 13, 23, 24, 29, and others, and the tariffs annexed thereto fully demonstrate the system established of compelling the different manifestations of commerce, industry, art, profession or occupation not included in the table of exemptions, to sustain the burdens of the government.

If the only law that governs this case does not authorize the computation of the industrial tax in the amount of the 5 per cent tax imposed upon dividends to be divided among the partners, which is the theory advanced by the plaintiff, as expressly provided in reference to the city tax, there is no legal authority for acceding to the prayer of the complaint.

Even though the 5 per cent tax payable on dividends of companies or mercantile associations to which paragraph 4 of tariff 1 of the regulation refers was denominated an industrial tax, it would be no reason why the amount of the industrial tax paid by the same under different contributive items should be computed in said tax, because according to the said regulation, corporations or individuals in these Islands engaged in any industry, commerce, profession, art, or occupation not expressly exempted, were obliged to pay it. (Article 1 of the regulation.)

It is a proven fact, which the parties have admitted, that the plaintiff company paid into the Administracion de Hacienda Publica de Manila (internal revenue office), and not to the municipality, the sum of 88,698 pesos as a tax of 5 per cent on the net profits distributable among its stockholders, corresponding to the years 1901, 1902, and 1903; the collection was lawfully made in this city for the reason that the administration and management of the said company resided in this city, and because the law did not impose upon the company the obligation to liquidate and pay said tax of 5 per cent in the provinces, by means of its agencies, which would have been an absurdity. (Article 36 of the said regulation.)

In the said sum there should only be computed the 83,307.89 pesos which the plaintiff company paid first as urbana and later as land tax corresponding to the year 1901, 22,103.18 pesos; to the year 1902, 43,520.49 pesos;

and to the year 1903, 17,684.22 pesos, the same being the only tax allowed by the regulation, according to the note at foot of No. 4 of tariff 1; the computation should, however, be now made upon liquidation by the Bureau of Internal Revenue. Under no consideration can the pretended computation of the amount paid as industrial tax in the total amount of the 5 per cent tax on dividends distributed among the stockholders of the plaintiff company be held to be in accordance with law, because there is no legal provision authorizing it.

This second computation is inexplicable and can not be reasonably inferred from the contents of the said regulation and its tariffs. Otherwise one sole tax would have been established, and the administration of the revenue would have been simpler, easier and more expeditious.

On the other hand the record does not show that any amount was illegally collected from the plaintiff by way of taxes. If no computation was made of the amount paid by it firstly as urbana and subsequently as land tax, as part of the tax due on its dividends, it was and is entitled to claim it and to obtain the refund thereof.

In order to arrive at this declaration of the only right that the plaintiff has, it is not necessary for this court to consider the modifications introduced by the laws in force enacted by the Commission with regard to the disposition of funds collected by the Bureau of Internal Revenue, for the reason that such action pertains to the Department of Finance, and the final settlement of this contention can easily be reached through the administration of the law by the Bureau of Internal Revenue from which the city received the amount whose return is now claimed.

Aside from this, it should be noted that in this decision, the deduction or computation of the total amount of the urbana or land tax paid by the plaintiff company on its real property, situated both in this city and in the provinces from the aggregate amount of the 5 per cent of the net profits of the company is considered to be in accordance with law, for the reason that the said 5 per cent tax comes from all the profits obtained in its general business throughout the Archipelago.

Therefore, by virtue of the considerations above set forth it is our opinion that it should be held, as we do hereby hold: First, that the amount of the industrial tax paid to the Administration by the Compañía General de Tabacos can not be computed in the 5 per cent tax on its dividends; second, that the only tax that should be computed therein, according to the general rules approved by royal order of June 19, 1890, was the urbana (city tax), and later the land tax which substituted it; and third, that in the sum which is the basis of the complaint, and which is the aggregate of the 5 per cent tax on dividends, there should have been computed the urbana and land taxes paid and corresponding to the three years 1901, 1902, and 1903; and, in consequence thereof, we must and do hereby order the Municipal Board of the city of Manila to refund to the plaintiff company the sum of P83,307.89, Philippine currency, which should have been computed in the amount claimed, or deducted therefrom. The judgment appealed from is thus affirmed in so far as it agrees with this decision; no special ruling is made as to the costs of either instance. So ordered.

Mapa, Johnson, and Tracey, JJ., concur.

WILLIARD, J., with whom concurs CARSON, J., dissenting:

In view of what was held in the previous decision rendered in this matter (7 Phil Rep., 488) I believe that the only payments, to the deduction of which the plaintiff is entitled, are those made to the city of Manila by reason of taxes on its real property situated therein, to wit: P52,430.60.

DISSENTING

ARELLANO, C. J.,

The city of Manila, the defendant herein, was created with the personality and rights set forth in its organic law, Art No. 183 of Philippine Commission, enacted July 30, 1901, section 1.

Section 47 of said Act, which fixed the annual tax rate for the years 1901, 1902, and 1903, repealed the laws, general orders or regulations by virtue of which the urbana and the frontage tax were collected in the city of Manila; they were substituted by the land tax the rate of which was fixed for the three years before mentioned. By virtue of the said provision the plaintiff paid to the defendant P52,430.00 as land tax on its real property situated in the city of Manila.

In addition to the urbana tax imposed during the Spanish regime, and which, as already stated, was substituted by the land tax, there existed the industrial tax, which continued in force until 1904, when it was likewise expressly repealed by section 138 of Act 1189, which instituted the internal revenue tax, and by Chapter XVI established the tax on commerce and industry which went into effect, as provided in said section 138, on the 1st of January, 1905.

The plaintiff had up to that time paid its industrial taxes in accordance with the laws of the former Spanish sovereignty. And in accordance with the said laws the present question must of necessity be decided; it must be assumed that since 1899 until the end of 1904, there existed the form and manner of collecting said industrial tax imposed by the Spanish legislator.

The resume, as it appears in the conclusion of facts in judgment appealed from is undoubtedly correct, as the total amount of taxes paid by the plaintiff during those five years was: for urbana or city tax P84,541.93, and for land tax P44,928.02, that is in all P128,839.95. (B. of E., 10.)

Prior to 1899, that is to say during the former sovereignty, the industrial tax would have been paid in full into the Insular Treasury, because it was not paid, nor could it be paid into any provincial or municipal treasury, nor to that of the ayuntamiento of the city of Manila which could only receive the tax that it had established on the frontage of properties. This point is also beyond all controversy; the industrial tax was a general one, as may be seen in the royal decree creating it, dated June 14, 1878:

"Article 1. A direct tax is hereby created in the Philippine Islands on urban property which shall amount for the time being to 5 per cent of the net profits of each proprietor.

"Art. 2. Another direct tax is also hereby established and imposed on industry, commerce, professions and arts, which shall be assessed proportionally to the nature and importance of the profits obtained by the persons engaged therein, whether they be Spanish subjects or foreigners."

But upon the advent of American sovereignty, from the year 1899, the plaintiff was required and compelled to pay in the provinces, and out of the said total of P128,839.95, P76,409.35 were paid in the provinces, and P52,430.60 to the city of Manila, as already stated.

After the above P52,430.60 had been paid to the city of Manila as land tax, it was discovered that the plaintiff had not paid anything as industrial tax, and, acting under the Spanish legislation still in force, on the 9th of April, 1904, the plaintiff was required to pay on account thereof the sum of P88,698 which is the subject matter of this controversy. Under the said legislation it established, as the first premise, that the dividends declared and distributed by the plaintiff company during the years 1901, 1902, and 1903 amounted to P1,773,960; and, as the second premise, that the plaintiff company should pay five per cent of the profits declared and distributed in order

to draw the conclusion that said five per cent amounted to the aforesaid P88,698.

The plaintiff company proved by the payments already enumerated, that it had more than paid the industrial tax due for the years 1901, 1902, and 1903; because if the 5 per cent on the profits which it had to pay for the years 1901, 1902, and 1903 only amounted to P88,698, from the fact that it had paid P128,839.95 for the said years, it was evident that it had paid P40,145.95 in excess.

But the defendant turned a deaf ear to the claim; it insisted on its demand with the warning that the plaintiff company would be suspended in the exercise of its commerce and industry if it did not pay the amount demanded, and matters being in this condition, the plaintiff company made the payment under protest and immediately filed the present complaint, the object of which is the refund of the W8,694 improperly collected by the city of Manila according to the facts above set forth.

The legal provisions by which this contention should be decided is the regulation for the-application of the royal decree of June 14, 1878, 'previously cited, which was promulgated by another royal decree dated June 19, 1890, published in the "Gaceta de Manila" of the 26th of October of the same year. Paragraph 4 of tariff 1 reads:

"The following will pay 5 per cent of the clear profits distributed to their shareholders according to their respective balances:

"1. * * *

"2. Companies and mercantile societies, Spanish and foreign, agencies of the latter whether stock or insurance companies not excepted in article No. 58 of the exemption table, even if their business, mercantile enterprise or other operations be conducted as agencies or on commission.

"Note.-The city tax which banks and mercantile associations included in the preceding paragraph have paid on the revenue of their propeBty, will be computed as a part of the tax collectible on their dividends."

To the claim of the plaintiff company the defendant set up the two points of defense which it has sustained in this suit.

First, that the land tax, now existing and imposed by the present sovereign, can not be computed nor included in the Spanish industrial tax which continued in force during the years 1901,1902, and 1903.

And, second, that the industrial tax, paid by the plaintiff company in the provinces of this Archipelago during the three years mentioned above, can not be computed as that due by it in the city of Manila, the place of its corporate residence.

It is, therefore, concluded that the pretension of the defendant is, that besides the P128,839.95 the plaintiff should pay P88,694 or altogether P217,533.95; deducting from the said total only whatever amount it may have paid as strictly urbana tax to the ayuntamiento of the city of Manila.

With respect to the first claim or defense, this court has already stated the conclusion of law in its former decision:

"It seems clear from the above-quoted provisions of said law that when banks and commercial associations have paid an industrial tax of 5 per cent upon the dividends declared, that they will thereby be relieved from the neces- sity of paying a territorial and an urbana tax. Therefore, under this law the plaintiff, being a commercial association, can not be required to pay more taxes in the form of territorial and urbana taxes after having paid an industrial tax in accordance with the above provisions of said industrial tax regulation." (7 Phil. Bep., 488, 493.)

But the plaintiff still insists in its brief that in this court's decision, the urbana and the territorial tax are

confounded for the purposes of the computation provided for by the note to paragraph 4 of tariff 1 of the industrial tax regulations, and claims an essential difference between the two aforesaid taxes; First, that the former is levied on the income, and the latter on the value of the property; that the former was not imposed on rural property while the latter is; second, that in Spain the territorial tax was computed as the industrial tax according to a note analogous to that contained in the regulation in force in the Philippines, for the reason that the said territorial tax existed there, while here it does not, the urbana tax taking its place, and that even so there was yet a difference between the Spanish territorial tax and the American land tax established here, consisting in that the first is equivalent to the urbana because it is an impost which is levied on the income, while the second is an ad valorem tax on the capital that the property represents, not on the income or product thereof.

It is true that the urbana tax established in the Philippines was imposed on the net profits which, for said purpose, was regulated for each property owner in accordance with article 1 of the royal decree of June 14, 1878, cited above, which established the said tax for the first time in these Islands; and it is also true that said tax was designated in Spain as the territorial tax, and as such it was not brought to these Islands, the reason therefor being contained in the preamble of said royal decree which reads:

"And if in the manner of their establishment (the taxes created by this royal decree) they do not appear with all the characteristics of similar taxes in the peninsula; if the tax imposed on urban property does not cover agricultural wealth and cattle; if for the industrial tax our system here of distribution, licenses and bases of population is not at once adopted, the reason therefor will be found in the essential difference which exists between that country and the peninsula by reason of its origin, situation and social organization; in that the landed property there, for the purposes of taxation, has not yet the character of such property here; that while the tribute exists, a new tax can not be imposed on agriculture which is mostly (carried on by the tax paying masses, and prudence counsels that, in the beginning, every reform should be made to conform to the habits and practices of the people of each country, as the best means to establish it, allowing time to gradually modify such habits in order that the form of taxation may be altered as experience may warrant."

This was said in 1878, but ever since the royal decree of May 19, 1893, organizing municipal governments, went into effect, which was the one in force at the advent of the new sovereignty, the tax on rural property, which every municipality could assess, had already been authorized; this tax consisted of a percentage on the real value of the property, whether it was under cultivation or not, which tax was to be fixed by the municipal tribunal, that is to say, a territorial tax the same as the one in force at the present time; and if the tax had been established in any municipality on real property belonging to a mercantile company that paid a percentage on distributable profits, the amount thereof would unquestionably have inured to the municipality in the form, manner and conditions under which the tax should be imposed and administered, but it is certain that if in the lowest, which was the urbana, computation was established as to the industrial tax, with regard to the highest, which was the territorial tax, which as may be seen was more cumbersome than in Spain, the same computation could not fail to exist, invoking for said effect as the settled rule of law the same Spanish legislation which admits such computation; otherwise, an agency or branch office in the Philippines would be more heavily taxed than the head or main office would be in Spain, while both were under the same dominion. This would be the question to be set up before the former sovereignty which would have decided it in accordance with the principles of its legislation.

As to the second defense the appellant insists on the provision of article 23 of the Regulation of June 19, 1890, sustaining that the amount paid by the appellee in the provinces was by reason of the industries carried on therein, and that such payment as industrial tax is independent of the tax on profits distributed which consists, as already stated, of 5 per cent thereon; it thus claims a difference between the industrial tax for license and a tax on profits, as if the latter were not an industrial tax. The said article 23 of the Regulation of June 19, 1890, reads as follows:

"Unless otherwise provided for, the person carrying on in the same premises, shop or store, two or more

industries, trades or businesses included in the same tariff, will pay tax on the one subject to the higher rate; if the industries, trades or businesses should be governed by different tariffs, the taxpayer will be required to obtain a license for the highest taxable industry, trade or business, in each tariff, in which he may be engaged. If the industries are carried on in separate stores, shops, or premises, tax chargeable to the different industries will be collected, even if they should belong to the same tariff."

It is an admitted fact that what existed in the provinces were agencies or branch offices of the company, the present appellee, without it having been agreed upon or proven in any manner that any of such agencies or branch offices had carried on a different branch of industry for which a tax of a higher or different rate should have been paid; had such a thing been proven, there would have been no reason for the existence of this dissenting opinion.

If the only reason for setting aside the computation of the amount paid in the provinces, by Act No. 133, is the above-cited article 23 of the regulation of June 19, 1890, this separate opinion becomes imperative for the sake of the rule involved. It may be assumed that the regulation of June 19, 1890, was not the only one that was promulgated in order to enforce the royal decree of 1878 which established the industrial tax.

The first regulation was of January 30, 1880, and contains the same provision as that of the 23d that was inserted from the regulation of 1890:

"Art. 26. The highest rate of the tax shall be paid by the taxpayer carrying on in the same premises, etc." That is to say, two or more industries under the same tariff, or as many taxes as industries under different groups of tariffs, and even when they pertain to the same tariff if carried on in separate premises; and nevertheless, the second tariff reads as follows: "The following shall pay 5 per cent of their net profits which, according to their respective balances, are for distribution among their shareholders, whatever may be the manner in which they were earned and the use to which the capital is put, and whatever may, also be the class of such profits: 1st. * * * 2d. Joint stock companies of all kinds, comanditarias by shares, and insurance companies unless exempted under paragraph 50 of the table of exemptions, whether Spanish or foreign, or agencies thereof employing their capital in mercantile transactions whether on their own account or on commission as agents."

And the regulation of February 28, 1887, contained the same precept as article 26 of the previous one:

"Article 25. Unless otherwise provided in the tariffs the highest rate of tax shall be paid by the taxpayer who may carry on in the same premises, etc.," almost identical with the text above stated; and moreover, in tariff 2, "Tax on profits" appears No. 3, more extensive and more explicit than the one transcribed from the foregoing regulation. It reads as follows:

"Second. Five per cent of their net profits which according to their respective balances, are for distribution among their shareholders, whatever may be the form under which they were earned and the employment to which the capital is put, and whatever may be the kind of such profits, shall be paid by all mercantile associations, whether collective, anonymous, comanditaria or insurance companies not exempted in No. 50 of the table of Exemptions, Spanish or foreign, or agencies thereof engaged in all kinds of businesses or mercantile or industrial enterprises, whether conducted on their own account or on commission as agents."

Therefore, the existence of an article as article 23 in the regulation of 1890, or of article 25 in that of 1887, or of 26 in that of 1880, is no reason why it should be established as a conclusion of law that an anonymous mercantile association, in addition to the 5 per cent on net profits distributed to its shareholders, which it must pay in the place where it resides, shall pay separately for its agencies or branch offices in the provinces where the same may exist, as many licenses under the industrial tax as there are agencies.

It would be necessary to show that such agencies or branch offices, or as might be said, the company itself through its agencies or branch offices, carries on in different places various industries even though they belonged to one sole tariff.

There is not in the entire proceedings one fact and even less one item of proof with regard to these matters. Nor as to the fact that the amount collected in the provinces was not 5 per cent on the profits, but for licenses.

The company in question paid in 1901, 1902 and 1903 the whole of the industrial tax due for the said three years. And it paid the excess on account of the peculiarity introduced in its exaction by reason of the creation of the autonomous provincial and municipal treasuries. An excess which should not enter into this question because the city of Manila had nothing to do with its exaction.

What portion of the said taxes paid for the said three years corresponds to the city of Manila from the 7th of August, when it was created is not a matter within the jurisdiction of the company nor of the courts of justice; it is a financial administrative question which should be settled between the Bureau of Internal Revenue and the provincial treasuries that received the partial amounts that make up the total sum of P128,839.95 paid by the company.

It appears, therefore, very evident that the P88,698 was a second payment improperly exacted; hence, this claim for the amount improperly paid is fully justified, and the entire amount, that is, the P88,698, with legal interest thereon as ordered in the judgment appealed from, should be refunded. The judgment appealed should be affirmed in all its parts.

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