

VI VE CHEMICAL PRODUCTS, INC., PETITIONER, VS. COMMISSIONER OF CUSTOMS AND THE COLLECTOR OF THE PORT OF MANILA, PEDRO PACIS, RESPONDENT.*G.R. No. L-28693. September 30, 1974*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8ce58ae92cea/>**FERNANDO, J.:**

The important question raised in this petition for the review of a decision of the Court of Tax Appeals, sustaining respondent Commissioner of Customs,[1] relates to the manner the constitutional power of the President to fix within specified limits tariff rates as duly authorized by Congress was exercised[2] As noted by Justice Laurel, such presidential competence is an exception to the principle of non-delegation of legislative power.[3] The legislation on which it is made to rest must then be strictly followed as indicated by Justice Tuason.[4] Petitioner would assert it was not so. The Court of Tax Appeals, in a well-reasoned opinion by Judge Umali, was of a different mind. It is understandable why. Now the matter is once again put in issue. As will be shown, a similar ruling is called for. We affirm.

This is one petition for review where the comprehensiveness, the thoroughness, and the lucidity with which the opinion of the lower court did result in lightening the burden on this Tribunal. Accordingly, Judge Umali's opinion will be quoted in extenso. It opens with a statement of the case: "On March 22, 1966, the petitioner imported from Taiwan 250 drums of glutamic acid, an article used in the manufacture of a food seasoning known as 'vetsin', on which it was required to pay, as it did pay, the sum of P27,274.00 as customs duty. Contending that it is liable only for the amount of P3,519.00, and not P27,274.00, it filed the necessary protest and requested the refund of the difference in the sum of P23,656.00." [5] Why such a sum was arrived at was next discussed: "The sum of P27,274.00 as customs duty on 250 drums (11,340 kilos) of glutamic acid was levied and collected pursuant to Section 104, par. 29.23, of the Tariff and Customs Code, as amended by Executive Order No. 225, dated December 13, 1965, which imposes an alternate customs duty, i.e., a specific duty of P2.40 per kilo of glutamic acid or an ad valorem duty of 40%, whichever is higher. The specific duty at the rate of P2.40 per kilo was applied to petitioner's importation as the same is higher than the ad valorem duty of 40%. 40% of P35,190.00 is P14,076.00. Prior to the amendment of Par. 29.23 of Section 104 of the Tariff and Customs Code by Executive Order No. 225, the customs duty on glutamic acid was 10% ad valorem, which, if applied to petitioner's importation of glutamic acid valued at P35,190.00, it would be liable to pay only the sum of P3,519.00." [6] The basic issue raised by petitioner was then set forth: "Petitioner contends that Executive Order No. 225 is invalid for failure to comply with Section 401 of the Tariff and Customs Code authorizing the President to increase or decrease tariff rates under the conditions specified therein, hence, it filed the corresponding protest with the Collector of Customs of Manila. The Collector denied the protest solely on the ground that he has no power to nullify an executive order issued by the President. On appeal to respondent Commissioner of Customs, the Collector's decision was sustained also on the same ground." [7]

The issue was expressed in these words: "In this appeal, the sole issue relates to the legality of Executive Order

No. 225. The parties submitted the case on the basis of the pleadings and the records of the Bureau of Customs and after filing their respective memorandum."[8] After referring to Section 401 of the Tariff and Customs Code, the stand of petitioner was taken up with greater particularity: "The grounds relied upon by petitioner in assailing the legality of Executive Order No. 225 may be summarized as follows: (1) There was no prior investigation by the Tariff Commission and recommendation by the National Economic Council in regard to the increase of the customs duty on imported glutamic acid; (2) it has not been shown that the increase in the customs duty on said article is necessary in the interest of national economy, general welfare and/or national defense; and (3) the duty on said article was increased in said Executive Order by more than five times the former rate of duty***"[9] As to the first ground, this is what was said: "As to the first ground, it appears that a public hearing was conducted by the Tariff Commission before it recommended the increase in the tariff duty on glutamic acid and that the same was favorably recommended by the National Economic Council."[10] As to the objection grounded on lack of necessity for such increase, the opinion stated: "The protection of local industries justifies the imposition of high tariff duties. (See Secs. 301, 302 and 304, Tariff and Customs Code.) Petitioner admits that the purpose behind the increase of duty on glutamic acid as provided in Executive Order No. 225 is to protect local industries engaged in the manufacture of said article. Consequently, we are of the opinion that the increase in the duty on glutamic acid by executive order is necessary in the interest of national economy and general welfare."[11] Lastly, Judge Umali made clear that the increase was not more than five times the limit under Section 401 of the Tariff and Customs Code: "It will be seen from the foregoing computation that at the time of the promulgation of Executive Order No. 225, the maximum rate of duty on glutamic acid which could be imposed by the President by virtue of Section 401 of the Tariff and Customs Code is P2.42 per kilo, which is more than the specific duty of P2.40 per kilo actually imposed by Executive Order No. 225. The flaw in the computation of petitioner is that it is based on the value of glutamic acid imported by it in 1966. The Tariff Commission based its computation on the value of said article imported from Taiwan in 1963, there being no record of any other foreign country from which glutamic acid was imported. Petitioner claims that the year 1963 is not 'the most recent representative period' within the meaning of Section 401 of the Tariff and Customs Code for the purpose of determining the maximum rate of duty which may be imposed by the President under said section. What should have been taken into account, according to petitioner, should be the value of said article in 1964 or 1965 or 1966. However, petitioner failed to produce evidence of the value of glutamic acid in 1964 and 1965. In fact, according to the Tariff Commission, there is no record of any importation of said article during those years. The value of glutamic acid imported by petitioner in 1966 (P3.38 per kilo) could not have been considered in the computation of the maximum increase in said duty because Executive Order No. 225 was promulgated on December 13, 1965. When the law mentions 'the most recent representative period' which must be taken into account in determining the value of an imported article, it could refer only to the immediate past and present and not to the future. To sustain petitioner's contention would render compliance with the statutory requirements extremely difficult, if not impossible. It would require the Tariff Commission, the National Economic Council and the President to delve into the future, which is purely speculative. It is our considered opinion that the validity of the action of the President in the exercise of his power to increase or decrease tariff rates pursuant to Section 401 of the Tariff and Customs Code must be determined by the circumstances obtaining at the time the action is taken, or previous thereto, and not those prevailing thereafter. Tested by this rule, there can be no doubt as to the validity of Executive Order No. 225."[12]

The decision, as could be expected then, was in favor of respondent Commissioner. It is sought to be reversed. It is no reflection on the vigorous and earnest efforts of counsel for petitioner, the law firm of De Santos and Delfino, that the Court of Tax Appeals must be, as noted earlier, sustained.

1. The first error assigned would find fault with the Court of Tax Appeals, for its finding that there was compliance with the statutory grant of authority to the President under Section 401 of the Tariff and Customs

Code. With the skill of advocacy, it was made to appear that what is involved is a legal question, one of gravity no less. A closer analysis would, however, reveal that at bottom, the matter in question is essentially factual. Thus the objection raised anew was that the required investigation was not held. The Court of Tax Appeals, as shown above, considered such ground and found it insubstantial. Then petitioner, by its system of computation followed, would impress on this Court that the statutory limit of the increase not to exceed five times was exceeded. Again, the Court of Tax Appeals, as made clear in the excerpt above-quoted found that it simply was not so. There is relevance to what was said in *Alhambra Cigar and Cigarette Mfg. Co. vs. Commissioner of Internal Revenue*:^[13] "That the question thus involved is inherently factual, appears to be undeniable. This Court is bound by the finding of facts of the Court of Tax Appeals, especially so, where as here, the evidence in support thereof is more than substantial, only questions of law thus being left open to it for determination. Without ignoring the various factors which petitioner-appellant would have this Court consider in passing upon the determination made by the Court of Tax Appeals but with full recognition of the fact that the two officials were non-residents, it cannot be said that it committed the alleged errors, calling for the interposition of the corrective authority of this Court. Nor as a matter of principle is it advisable for this Court to 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, as did not happen here, there has been an abuse or improvident exercise of this authority."^[14]

2. The second alleged error of the Court of Tax Appeals was that no judicial notice was taken of the similarity in the chemical components of propionic glycine and glutamic acid. Petitioner discussed this assignment of error thus: "The error of the Court of Tax Appeals could be attributed to its findings x x x that petitioner failed to produce evidence of the value of glutamic acid in 1964 and 1965. However, importations of glutamic acid under the commercial name of '[propionic glycine]' had been made in the years 1964 and 1965. The unit cost of glutamic acid for this period ranged from U.S. \$0.39 to U.S. \$0.42 x x x The Court of Tax Appeals, however, held that 'the chemical components of these article [propionic glycine and glutamic acid] are technical in nature and only persons possessed of the required knowledge know their similarity or difference.' x x x We respectfully submit that the similarity in the chemical components of propionic glycine and glutamic acid should have been taken judicial notice of by the Court of Tax Appeals because it is a matter 'which is capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy' (Model Code of Evidence, American Law Institute, 66). That the matter is 'capable of immediate and accurate determination' is shown by the fact that even the very decision of the Court of Tax Appeals admitted that the case was submitted on the pleadings and the records of the Bureau of Customs. Furthermore, there is already a certification that propionic glycine is just another name for glutamic acid x x x "[15] The above assigned error was refuted in the equally well-researched brief of the then Solicitor General, now Associate Justice, Antonio F. Barredo, and the then Assistant Solicitor General, now Associate Justice of the Court of Appeals, Pacifico P. de Castro,^[16] thus: "Relative to appellants assertion that the decision is erroneous as the Court of Tax Appeals did not take judicial notice of the fact that 'propionic glycine' is the same as glutamic acid, we maintain that the lower court was correct in stating that the chemical components of these articles are technical in nature and only persons possessed of the required knowledge know their similarity or difference. Neither did appellant show that the chemistry book shows the chemical components of propionic glycine and glutamic acid are the same. This being so, it cannot be said that these objects are of public knowledge or of unquestionable demonstration to be the proper subject of judicial notice by the Court."^[17] The above excerpt is followed by a reiteration that again, what is sought to be set aside is factual in character and thus impressed with finality.

3. There is no need to discuss the third assigned error to the effect that the Court of Tax Appeals should have rendered a decision in favor of petitioner as it is merely a logical consequence of the first two errors assigned

which are found to be lacking in merit.

WHEREFORE, the decision of the Court of Tax Appeals of July 31, 1967 is affirmed. Costs against petitioner.

Makalintal, C.J., Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., took no part.

[1] The other respondent was the then Collector of the Port of Manila, Pedro Pacis.

[2] Article VI, Section 22, par. (2) of the 1935 Constitution was worded thus: "The Congress may by law authorize the President, subject to such limitations and restrictions as it may impose, to fix, within specified limits, tariff rates, import or export quotas, and tonnage and wharfage dues." It is now found in Article VIII, Section 17, par. (2) of the present Constitution.

[3] *People vs. Vera*, 65 Phil. 56 (1937).

[4] Cf. *Araneta vs. Dinglasan*, 84 Phil. 368 (1949).

[5] Decision, Annex C of Petition, 1.

[6] *Ibid*, 1-2.

[7] *Ibid*, 2.

[8] *Ibid*,

[9] *Ibid*, 4.

[10] *Ibid*,

[11] *Ibid*, 5

[12] *Ibid*, 7-8.

[13] L-23226, November 28, 1967, 21 SCRA 1111.

[14] *Ibid*, 1118-1119. The cases cited follow: *Sanchez vs. Commissioner of Customs*, 102 Phil. 37 (1957); *Castro vs. Collector of Internal Revenue*, L--12174, April 26, 1962, 4 SCRA 1093; *Commissioner vs. Priscila Estate, Inc.*, L-18282, May 29, 1964, 11 SCRA 130; *The Philippine Guaranty Co., Inc vs. Commissioner of Internal Revenue*, L-22074, Sept. 6, 1965, 15 SCRA 1; *Yupangco and Sons vs. Commissioner of Customs*, L-22259, Jan. 19, 1966, 16 SCRA 1; *Republic vs. Razon*, L-17462; May 29, 1967, 20 SCRA 234; *Balbas vs. Domingo*, L-19804, Oct. 23, 1967, 21 SCRA 444. The following later decisions may be added: *Reyes vs. Commissioner of Internal Revenue*, L-24020, July 29, 1968, 24 SCRA 198; *Chu Hoi Hom vs. Court of Tax Appeals*, L-22046, Oct. 29, 1968, 25 SCRA 809; *Dy Peh vs. Collector of Internal Revenue*, L-19375, May 21, 1969, 28 SCRA 216.

[15] Brief for the Petitioner-Appellant, 22-23, 24, 25.

[16] They are assisted by Solicitor Lolita O. Gal-lang.

[17] Brief for the Appellee, 20-21.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.