

HIJO PLANTATION, INC., DAVAO FRUITS CORPORATION, TWIN RIVERS PLANTATION, INC. AND MARSMAM & CO., INC., FOR THEMSELVES AND IN BEHALF OF OTHER PERSONS AND ENTITIES SIMILARLY SITUA...

G.R. No. L-34526. August 09, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari and prohibition which seeks: (1) to declare Monetary Board Resolution No. 1995, series of 1971, as null and void; (2) to prohibit the Central Bank from collecting the stabilization tax on banana exports shipped during the period January 1, 1972 to June 30, 1982; and (3) a refund of the amount collected as stabilization tax from the Central Bank.

The facts of this case as culled from the records are as follows:

Hijo Plantation, Inc., Davao Fruits Corporation, Twin Rivers Plantation, Inc., and Maranan Plantation (Manifestation, Rollo, p. 18), collectively referred to herein as petitioners, are domestic corporations duly organized and existing under the laws of the Philippines, all of which are engaged in the production and exportation of bananas in and from Mindanao.

Owing to the difficulty of determining the exchange rate of the peso to the dollar because of the floating rate and the promulgation of Central Bank Circular No. 289 which imposes an 80% retention scheme on all dollar earners, Congress passed Republic Act No. 6125 entitled "an act imposing STABILIZATION TAX ON CONSIGNMENTS ABROAD TO ACCELERATE THE ECONOMIC DEVELOPMENT OF THE PHILIPPINES AND FOR OTHER PURPOSES", approved and made effective on May 1, 1970 (Comment on Petition, Rollo, p. 32), to eliminate the necessity for said circular and to stabilize the peso. Among others, it provides as follows:

"SECTION 1. There shall be imposed, assessed and collected a stabilization tax on the gross F.O.B. peso proceeds, based on the rate of exchange prevailing at the time of receipt of such proceeds, whether partial or total, of any exportation of the following products in accordance with the following schedule:

"a. In the case of logs, copra, centrifugal sugar, and copper ore and concentrates:

"Ten per centum of the F.O.B. peso proceeds of exports received on or after the date of effectivity of this Act to June thirty, nineteen hundred seventy one;

"Eight per centum of the F.O.B. peso proceeds of exports received from July first, nineteen hundred seventy-one to June thirty, nineteen hundred seventy-two;

"Six per centum of the F.O.B. peso proceeds of exports received from July first, nineteen hundred seventy-two to June thirty, nineteen hundred seventy-three; and

"Four per centum of the F.O.B. peso proceeds of exports received from July first, nineteen hundred seventy-three to June thirty, nineteen hundred seventy-four.

"b. In the case of molasses, coconut oil, dessicated coconut, iron ore and concentrates, chromite ore and concentrates, copra meal or cake, unmanufactured abaca, unmanufactured tobacco, veneer core and sheets, plywood (including plywood panels faced with plastics), lumber, canned pineapples, and bunker fuel oil:

"Eight per centum of the F.O.B. peso proceeds of exports shipped on or after the date of effectivity of this Act to June thirty, nineteen hundred seventy-one;

"Six per centum of the F.O.B. peso proceeds of exports shipped from July first, nineteen hundred seventy-one to June thirty nineteen hundred seventy-two;

"Four per centum of the F.O.B. peso proceeds of exports shipped from July first, nineteen hundred seventy-two to June thirty nineteen hundred seventy-three; and

"Two per centum of the F.O.B. peso proceeds of exports shipped from July first, nineteen hundred seventy-three to June thirty nineteen hundred seventy-four.

"Any export product the aggregate annual F.O.B. value of which shall exceed five million United States dollars in any one calendar year during the effectivity of this Act shall likewise be subject to the rates of tax in force during the fiscal years following its reaching the said aggregate value." (*Italics supplied*).

During the first nine (9) months of calendar year 1971, the total banana export amounted to an annual aggregate FOB value of P8,949,000.00 (Answer, Rollo, p. 73) thus exceeding the aggregate FOB value of five million United States Dollar, bringing it within the ambit of Republic Act No. 6125. Consequently, the banana industry was in a dilemma as to when the stabilization tax was to become due and collectible from it and under what schedule of Section 1(b) of Republic Act 6125 should said tax to be collected. Accordingly, petitioners through their counsel, by letter dated November 5, 1971, sought the authoritative pronouncement of the Central Bank

(herein referred to as respondent), therein advancing the opinion that the stabilization tax does not become due and collectible from the petitioners until July 1, 1972 at the rate of 4% of the FOB peso proceeds of the exports shipped from July 1, 1972 to June 30, 1973. Replying by letter dated December 17, 1971 (Rollo, p. 11), the Central Bank called attention to Monetary Board Resolution No. 1995 dated December 3, 1971, which clarified that :

"1) For exports of bananas shipped during the period from January 1, 1972 to June 30, 1972; the stabilization tax shall be at the rate of 6%;

"2) For exports of bananas shipped during the period from July 1, 1972 to June 30, 1973, the stabilization tax shall be at the rate of 4%; and

"3) For exports of bananas shipped during the period from July 1, 1973 to June 30, 1974, the stabilization tax shall be at the rate of 2%."

Contending that said Board Resolution No. 1995 was manifestly contrary to the legislative intent, petitioners sought a reconsideration of said Board Resolution by letter dated December 27, 1971 (Rollo, p. 12) which request for reconsideration was denied by the respondent, also by letter dated January 20, 1972 (Rollo, p. 24). With the denial of petitioners' request for reconsideration, respondent thru its agent Bank, Rizal Commercial Banking Corporation has been collecting from the petitioners who have been forced to pay under protest, such stabilization tax.

Petitioners view respondent's act as a clear violation of the provision of Republic Act No. 6125, and as an act in excess of its jurisdiction, hence, this petition.

The sole issue in this case is whether or not respondent acted with grave abuse of discretion amounting to lack of jurisdiction when it issued Monetary Board Resolution No. 1995, series of 1971 which in effect reaffirmed Central Bank Circular No. 309, enacted pursuant to Monetary Board Resolution No. 1179.

There is here no dispute that the banana industry is liable to pay the stabilization tax prescribed under Republic Act No. 1995, it being the admission of both parties, that the Industry has indeed reached and for the first time in the calendar year 1971, a total banana export exceeding the aggregate annual FOB value of five million United States dollars. The crux of the controversy, however, is the manner of implementation of Republic Act No. 6125.

Section 1 of R.A. 6125 clearly provides as follows:

"An export product the aggregate annual FOB value of which shall exceed five million US dollars in any one calendar year during the effectivity of the act shall likewise be subject to the rates of tax in force during the fiscal year following its reaching the said aggregate value."

Petitioners contend that the stabilization tax to be collected from the banana industry does not become due and collectible until July 1, 1972 at the rate of 4% of the F.O.B. peso proceeds of the export shipped from July 1, 1972 to June 30, 1973. They further contend that respondent gave retroactive effect to the law (RA 6125) by ruling in Monetary Board Resolution No. 1995 dated December 3, 1971, that the export stabilization tax on banana industry would start to accrue on January 1, 1972 at the rate of 6% of the F.O.B. peso proceeds of export shipped

from July 1, 1971 to June 30, 1972 (Rollo, pp. 3-4).

Respondent, on the other hand, contends that the aforecited provision of RA 6125 merely prescribes the rates that may be imposed but does not provide when the tax shall be collected and makes no reference to any definite fixed period when the tax shall begin to be collected (Rollo, pp. 77-78).

There is merit in this petition.

In the very nature of things, in, many cases it becomes impracticable for the legislative department of the Government to provide general regulations for the various and varying details for the management of a particular department of the Government. It therefore becomes convenient for the legislative department of the government, by law, in a most general way, to provide for the conduct, control, and management of the work of the particular department of the government; to authorize certain persons, in charge of the management and control of such department (*United States v. Tupasi Molina*, 29 Phil. 119 [1914]).

Such is the case in RA 6125, which provided in its Section 6, as follows:

"All rules and regulations for the purpose of carrying out the provisions of the act shall be promulgated by the Central Bank of the Philippines and shall take effect fifteen days after publication in three newspapers of general circulation throughout the Philippines, one of which shall be in the national language."

Such regulations have uniformly been held to have the force of law, whenever they are found to be in consonance and in harmony with the general purposes and objects of the law. Such regulations once established and found to be in conformity with the general purposes of the law, are just as binding upon all the parties, as if the regulation had been written in the original law itself (29 Phil. 119, *ibid*). Upon the other hand, should the regulation conflict with the law, the validity of the regulation cannot be sustained (*Director of Forestry vs. Muroz*, 23 SCRA 1183).

Pursuant to the aforecited provision, the Monetary Board issued Resolution No. 1179 which contained the rules and regulations for the implementation of said provision which Board resolution was subsequently embodied in Central Bank Circular No. 309, dated August 10, 1970 (duly published in the Official Gazette, Vol. 66, No. 34, August 24, 1970, p. 7855 and in three newspapers of general circulation throughout the Philippines namely, the Manila Times, Manila Chronicle and Manila Daily Bulletin). Section 3 of Central Bank Circular No. 309, "provides that the stabilization tax shall begin to apply on January first following the calendar year during which such export products shall have reached the aggregate annual F.O.B. value of more than \$5 million and the applicable tax rates shall be the rates prescribed in schedule (b) of Section 1 of RA No. 6125 for the fiscal year following the reaching of the said aggregate value." Central Bank Circular No. 309 was subsequently reaffirmed in Monetary Board Resolution No. 1995 herein assailed by petitioners for being null and void (Rollo, pp. 97-98).

In its comment (Rollo, p. 40), respondent argues that the request for authoritative pronouncement of petitioners was made because there was no express provision in Section 1 of RA 6125 which categorically states, when the stabilization tax shall begin to accrue on those aggregate annual FOB values exceeding five (5) million United States dollars in any one calendar year during the effectivity of said act. For which reason, the law itself authorized it under Section 7 to promulgate rules and regulations to carry out the provisions of said law.

In petitioner's reply (Rollo, p. 154) they argue that since the Banana Exports reached the aggregate annual F.O.B. value of US \$5 million in August 1971, the stabilization tax on banana should be imposed only on July 1, 1972, the fiscal year following the calendar year during which the industry attained the \$5 million mark. Their argument finds support in the very language of the law and upon congressional record where a clarification on the applicability of the law was categorically made by the then Senator Aytona, who stated that the tax shall be

applicable only after the \$5 million aggregate value is reached, making such tax prospective in application and for a period of one year – referring to the fiscal year (Annex 8, Comment of Respondent, Rollo, p. 60). Clearly such clarification was indicative of the legislative intent. Further, they argue that respondent bank through the Monetary Board clearly overstepped RA 6125 which empowered it to promulgate rules and regulations for the purpose of carrying out the provisions of said act, because while Section 1 of the law authorizes it to levy a stabilization tax on petitioners only in the fiscal year following their reaching the aggregate annual F.O.B. value of US \$5 million, that is, the fiscal year July 1, 1972 to June 30, 1973, at a tax rate of 4% of the FOB peso proceeds, respondent in gross violation of the law, instead issued Resolution No. 1995 which impose a 6% stabilization tax for the calendar year January 1, 1972 to June 30, 1972, which obviously is in excess of its jurisdiction. It was further argued that in directing its agent bank to collect the stabilization tax in accordance with Monetary Board Resolution No. 1995, it acted whimsically and capriciously (Rollo, p. 155). |

It will be observed that while Monetary Board Resolution No. 1995 cannot be said to be the product of grave abuse of discretion but rather the result of respondent's overzealous desire to carry into effect the provisions of RA 6125, it is evident that the Board acted beyond its authority under the law and the Constitution. Hence, the petition for certiorari and prohibition in the case at bar, is proper.

Moreover, there is no dispute that in case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law (*People v. Lim*, 108 Phil. 1091). Rules that subvert the statute cannot be sanctioned (*University of Sto. Tomas v. Board of Tax Appeals*, 93 Phil. 376; *Del Mar v. Phil. Veterans Administration*, 51 SCRA 340). Except for constitutional officials who can trace their competence to act to the fundamental law itself, a public official must locate in the statute relied upon a grant of power before he can exercise it. Department zeal may not be permitted to outrun the authority conferred by statute (*Radio Communications of the Philippines, Inc. v. Santiago*, L-29236, August 21, 1974, 58 SCRA 493; cited in *Tayug Rural Bank v. Central Bank*, L-46158, November 28, 1986, 146 SCRA 120, 130).

PREMISES CONSIDERED, this petition is hereby GRANTED.

SO ORDERED.

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

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