

MANILA ELECTRIC COMPANY, PETITIONER VS. PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. No. L-16005. April 28, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

On November 24, 1958, the Manila Electric Company was, upon its application, authorized to place a firm order and to install and operate at its Rockwell Steam Plant in San Pedro, Makati, Rizal, an additional electric generating unit with a 60,000 KW capacity, complete with boiler and other accessories, by the Public Service Commission. On December 18, 1958, the PSC handed down an order requiring the MERALCO "to pay to the Commission within thirty (30) days from the date of its receipt of this order the sum of P27,346.80 as permit fee authorizing the increase of capacity of its electric plant based on the additional investment of P27,346,800.00 at the rate of P0.10 for each one hundred pesos (P100.00) or fraction of said additional investment".

Under date of December 29, 1958, the MERALCO presented a motion for reconsideration of the above order, contending that the requirement to pay the permit fee is contrary to law, particularly Section 40 of the Public Service Act (CA 146), as amended by Com. Act No. 454. The motion was denied on September 11, 1959; hence this appeal.

There is no question of fact involved. The only issue presented to Us is "the legality of the imposed permit fee of P27,346.80 by the PSC."

Petitioner's argument in objecting to the imposition of the fee is centered on Section 40 of the Public Service Act, as amended by Com. Act No. 454, which provides—

"SEC. 40.—The Commission is authorized and ordered to charge and collect from any public service the following fees:

* * * * *

"(g) For each permit authorizing the increase of equipment, the installation of new units or authorizing the increase of capacity, or the extension of means or general extensions in the services, ten centavos for each one hundred pesos or fraction of the additional capital necessary to carry out the permit.

* * * * *

"All collections of fees provided in this section shall be covered into the Philippine Treasury. This article shall not be applicable to the Commonwealth of the Philippines nor to its instrumentalities, nor to enterprises that have legislative franchises for the exercise of which the law specifies the payment of a certain per centum of their earnings in lieu of any other taxes, fees, or license fees."

Upon the other hand, the State contends that while the franchise of petitioner exempts it from the payment of taxes and assessments, it does not exempt it from the payment of fees; and that there is a great difference between

taxes and assessments on one hand and fees on the other (Manila Electric Company, contra El Auditor General y la Comision, 73 Phil. 128-142).

The petitioner argues that it is not claiming exemption from paying the permit fee under its franchise; that the exemption is claimed under the law (CA No. 146, as amended by CA No. 454), the pertinent provision of which states: "This article shall not be applicable to * * * enterprises that have legislative franchises for the exercise of which the law specifies the payment of certain per centum of their earnings in lieu of any other taxes, fees, or license fees"; and that the distinction between 'taxes' and 'fees' in the case cited by the State, is irrelevant to the resolution of the instant appeal, so that an extended disquisition thereon is deemed superfluous. Under the above arguments, petitioner submits that as it already pays 5% of its earnings for the exercise of its legislative franchise, it is exempted to pay the permit fee, because paragraph 9 of its franchise (as amended), provides that the 5% shall be "in lieu of all taxes and assessments of whatsoever nature and by whatsoever authority upon the privileges, earnings, income, franchise, and poles, wires, transformers and insulators of the grantee, from which taxes and assessments the grantee is hereby expressly exempted".

It is true that petitioner seeks exemption under section 40 of the Public Service Act, as amended by CA No. 454, but it is no less true that said Act makes reference "to enterprises that have legislative franchises for the exercise of which the law specifies the payment of a certain per centum of their earnings in lieu of any other taxes, fees or license fees", like the herein petitioner. In the interpretation or construction of the real meaning and intent of the said act, we should, therefore, take into consideration the provisions of petitioner's franchise. Petitioner's legislative franchise, as amended, specifies the payment of 5% of its earnings and expressly exempts applicant from the payment of taxes and assessments. The franchise limits the exemption to the payment of taxes and assessments. It does not exempt the petitioner from the payment of fees. If the intention of the lawmakers was to include permit fees, it could have easily done so. It is presumed that the lawmakers are familiar with the distinction between taxes (assessments or 'impuestos') and fees (derechos) (Manila Electric Co. vs. El Auditor General y la Comision de Servicios Publicos, 73.Phil., 128-142). The exemption from the payment of fees not having been expressly granted in the petitioner's legislative franchise, which is a special law governing its operation, the doubt should be, as it is hereby resolved in favor of the grantor of the privilege, here the State, and strictly against the party claiming exemption. Whoever claims exemption must be able to justify his claim by the clearest grant of organic or statute law. An exemption cannot be permitted to exist upon vague implication (C. Borja vs. Coll. of Int. Rev., 113 Phil., 568; See also Coll. vs. Manila Jockey Club, Inc. 98 Phil., 670; 53 Off. Gaz; 3762; Song Kiat Chocolate Factory vs. Central Bank, 102 Phil., 477; 54 Off. Gaz; 615).

In view hereof, the decision appealed from, being in accordance with law and the evidence, is affirmed, with costs against petitioner.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes J. B. L., and Dizon, JJ., concur.

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