

**LA CARLOTA SUGAR CENTRAL AND ELIZALDE & CO., INC.,
PETITIONERS AND APPELLANTS, VS. PEDRO JIMENEZ, AUDITOR
GENERAL OF THE PHILIPPINES, RESPONDENT AND APPELLEE.**

G.R. No. L-12436. May 31, 1961

Ponente: DIZON, J.

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DIZON, J.:

Sometime in September, 1955 La Carlota Sugar Central, a domestic corporation hereinafter referred to as the Central, managed, controlled and operated by Elizalde & Co., Inc., referred to hereinafter as Elizalde, imported 500 short tons of ammonium sulphate and 350 short tons of ammonium phosphate. The corresponding letter of credit in the sum of \$60,930.00, U.S. currency, was opened through the Hongkong & Shanghai Banking Corporation in the name of the Central and in favor of the Overseas Central Enterprises, Inc., 141 Battery St., San Francisco 11, California, U.S.A. The invoices, bill of lading, and all other papers incident to said importation were also in the name of the Central.

When the fertilizers arrived in the Philippines, the Central Bank imposed on, and demanded from the Central 17% exchange tax in accordance with the provisions of Republic Act No. 601, as amended, and the Central paid in that connection the total sum of P20,872.09 (Annexes B and C attached to the Petition for Review).

On November 18, 1955 the Central filed, through the Hongkong & Shanghai Banking Corporation, a petition for the refund of the P20,872.09 paid as above stated, claiming that it had imported the fertilizers mentioned heretofore upon request and for the exclusive use of five haciendas known as "Esperanza", "Mahalin", "Valencia"—owned by Elizalde—"Consuelo" and "Maayon", these last two managed by the same company, and therefore the importation was exempt from the 17% exchange tax law in accordance with Sec. 2, Rep. Act 601, as amended by Act 1375. The Auditor of the Central Bank, however, denied the petition on July 2, 1956. The Central requested the Auditor to reconsider his ruling, but after a re-examination of all pertinent papers the reconsideration was denied. The Central then appealed to the Auditor General of the Philippines, who on January 18, 1957, affirmed the ruling of the Auditor of the Central Bank upon the ground that "the importation of the fertilizers here in question does not fall within the scope of the exempting provisions of Section 2 of Republic Act No. 601, as amended by Republic Act No. 1375. Accordingly, the decision of the Auditor, Central Bank of the Philippines, denying the aforementioned request for refund of 17% exchange tax, is hereby affirmed". In view of this result, the Central and Elizalde filed the present petition for review.

The only question to be resolved is whether upon the undisputed facts of the case the importation of the fertilizers mentioned heretofore is covered by the exemption provided by Sections 1 and 2 of Republic Act No. 601, as amended by Republic Acts Nos. 1175, 1197 and 1375, which read as follows:

"SECTION 1. Except as herein otherwise provided, there shall be assessed, collected and paid a special excise tax of seventeen per centum on the value in Philippine peso of foreign exchange sold by the Central Bank of the Philippines, or any of its agents until June thirtieth, nineteen hundred and fifty-six.

"SEC. 2. The tax provided for in section one of this Act shall not be collected on foreign exchange used for the payment of the cost, transportation and/or other charges of canned milk, canned beef, cattle, canned fish, cocoa beans, malt, stabilizer and flavors, vitamin concentrate; supplies and equipment purchased directly by the Government or any of its instrumentalities for its own exclusive use; machinery, equipment, accessories, and spare parts, for the use of industries, miners, mining enterprises, planters and farmers; and fertilizers when imported by planters or farmers directly or through their cooperatives; * * *."

The law is, therefore, clear that imported fertilizers are exempt from the payment of the 17% tax only if the same were imported by planters or farmers directly or through their cooperatives. In the present case, as appellants admit that the Central "is not the planter ultimately benefited by the fertilizers, much less a cooperative within the purview of Rep. Act No. 601, as amended", the only possible conclusion is that the imported fertilizers in question are not entitled to the exemption provided by law.

It is, however, argued that the Central imported the fertilizers for the exclusive purpose of accommodating the haciendas mentioned heretofore, who were to use the fertilizers; that the Central acted merely as an agent of the aforesaid haciendas; that considering the relationship and corporate tie-up between the Central, on the one hand, and Elizalde, on the other, the act of the Central in importing the fertilizers should be considered as an act of Elizalde and, therefore, the act of the haciendas themselves, three of which were owned and two managed by Elizalde. We find these contentions to be without merit.

As already stated, the exemption covers exclusively fertilizers imported by planters or farmers directly or through their cooperatives. The word "directly" has been interpreted to mean "without anything intervening" (Words and Phrases, Vol. 12A, p.140—citing *Gulf Atlantic Warehouse, etc. vs. Bennet*, 51 So 2nd 544, 546, 36 Ala. App. 33); "proximately or without intervening agency or person" (*Idem*, p. 142—citing *Employers' Casualty Co. vs. Underwood*, 286 p. 7, 10; 142 Okl. 208). Consequently, an importation of fertilizers made by a farmer or planter through an agent, other than his cooperative, is not imported directly as required by the exemption. This conclusion acquires added force upon consideration of the fact that the legal provision in question has already established an exception from the meaning or scope of the term "directly" by providing coverage for fertilizers imported by planters or farmers through their cooperatives. The latter, therefore, is the only agent of planters or farmers recognized by the exception, and we can not recognize any other.

On the other hand, that the agent acted simply to accommodate the planter or farmer and without any idea of making any profit from the transaction would seem to be immaterial considering the language employed in the statute under consideration.

In connection with what has been stated heretofore, we have to bear in mind likewise that when the issue is whether or not the exemption from a tax imposed by law is applicable, the rule is that the exempting provision is to be construed liberally in favor of the taxing authority and strictly against exemption from tax liability, the result being that statutory provisions for the refund of taxes are strictly construed in favor of the State and against the taxpayer (82 C.J.S. pp. 957-958; *Helvering vs. Northwest Steel Rolling Mills*, 311 US 46, 85 L. ed. 29 S. Ct., 51 Am. Jur. p. 526). Indeed, were we to adopt appellants' construction of the law by exempting from the 17% tax all fertilizers imported by planters or farmers through any agent other than their cooperatives, we would be rendering useless the only exception expressly established in the case of fertilizers imported by planters or farmers through their cooperatives.

In view of the foregoing, the ruling appealed from is hereby affirmed, with costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, De Leon, and Natividad, JJ., concur.

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