

CENTRAL AZUCARERA DON PEDRO, PETITIONER, VS. COURT OF TAX APPEALS, ET AL., RESPONDENTS.

G.R. No. L-21139. April 30, 1966

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ceaac4a43072/>

REYES, J.B.L., J.:

The "Central Azucarera Don Pedro", a domestic sugar milling corporation, applied for review of a decision of the Court of Tax Appeals (in C.T.A. Case No. 645), dated February 25, 1965, affirming an assessment of the Collector of Internal Revenue against said corporation for P40,522.86 as deficiency sales tax, plus surcharges, on denatured alcohol sales from October 1, 1947 to October 31, 1952.

The case is stated in the Tax Court's decision under review to be as follows:

"It appears that during the period in question, petitioner removed from its distillery and sold 4,218,749 liters of denatured alcohol on which it paid the specific tax pursuant to Section 142 (d) of the National Internal Revenue Code. Upon investigation of the books and records of petitioners by agents of the Bureau of Internal Revenue, respondent determined that the said alcohol was removed from petitioner's distillery not for motive power but for industrial purposes and, therefore, it is exempt from the specific tax. However, sales of such alcohol are subject to the sales tax under Section 186 of the Revenue Code. Accordingly, an assessment was made against petitioner for deficiency sales tax, plus the corresponding surcharge, after crediting the specific tax paid against the sales tax due on sales of said alcohol.

On the other hand, petitioner insists that said alcohol was denatured and sold for motive power which is subject to the specific tax and not to the sales tax. At any rate, it is alleged that the right of respondent to assess the deficiency sales tax has already prescribed.

Section 133 of the Revenue Code imposes a specific tax on distilled spirits (alcohol). Where alcohol is denatured for motive power, it is subject to a lesser amount of specific tax under Section 142 (d). In the case of alcohol not taxable under Section 133 or Section 142(d), such as denatured alcohol for industrial uses (Sec. 128, Rev. Code) it is subject to the sales tax under Section 186.[1]

The evidence submitted for the Commissioner of Internal Revenue consisted in the testimony of former revenue investigator Marcelo Insilay, to the effect that he investigated and reported on the denatured alcohol sales of petitioner Central. His report (Exhibit "1") states the following:

"The undersigned has conducted the verification of the books and records of the distillery by segregating the denatured alcohol produced with gasoline as the ingredient denaturant from those produced without gasoline. The latter class is considered as produced for industrial purposes and as such, its sales are subject to percentage tax as provided for in Section 186 of the National Internal Revenue Code, as amended."

The working sheets show that, conformably to the report of Insilay, he had separately listed the sales of alcohol denatured with gasoline from sale of alcohol mixed with other denaturants, giving dates, customers and amounts; that the former were captioned "Sales of Alcohol for Motive Power" (Exhibit "1-A) and the latter "Sales of

Alcohol for industrial Purposes" (Exhibit "3"). And the question is whether this evidence suffices to rebut the presumption established in section 142 (d), in fine, of the Internal Revenue Code, as amended, viz.:

"SEC. 142. Specific tax on manufactured oils and other fuels.—On refined and manufactured mineral oils and motor fuels, there shall be collected the following taxes:

(a) x x x x x x x x x x x x x;

(b) x x x x x x x x x x x x x;

(c) x x x x x x x x x x x x x;

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, one centavo; Provided, That if the denatured alcohol is mixed with gasoline, the specific tax on which has already been paid, only the alcohol content shall be subject to the tax herein prescribed. For the purposes of this subsection, the removal of denatured alcohol of not less than one hundred eighty degrees proof (ninety per centum absolute alcohol) shall be deemed to have been removed for motive power, unless shown to the contrary. (As amended by Republic Acts Nos. 56 & 1435)."

It is uncontested that all the denatured alcohol listed as sold in Exhibits "1-A" and "3" was of "not less than 180 degrees proof (90% absolute alcohol)".

The Tax Court held the evidence sufficient to overcome the statutory presumption that removal of denatured alcohol of 180° proof or more shall be deemed to have been removed for motive power.

We are unable to assent to this finding. There is no proof whatsoever of the purposes to which the alcohol denatured with substances other than gasoline was actually devoted, other than the labels in the lists made by revenue investigator Insilay. That such alcohol was "used for industrial purposes" is merely the investigator's own conclusion, which, of course, is not fact, and can not bind the taxpayer unless supported by other proof. Such proof is wanting on the record, for there is no evidence to show in any way that only the alcohol denatured with gasoline was, or can be, used for motive power. From the fact that gasoline-denatured alcohol can be used for motive power, it does not necessarily follow that alcohol denatured with other substances is unfit for such use. In fact, there is no showing what other substances, besides gasoline, were used by the Central for denaturing purposes.

Examination of section 142 (d) of the Internal Revenue Code reveals that specific reference is made to alcohol denatured with gasoline exclusively to prescribe that only the alcohol content (i.e., excluding the volume of gasoline) is subject to the tax. But in establishing the presumption of use for motive power, the law makes no mention of the kind of denaturant mixed with the alcohol, the only requirement being that the product be not less than 180 degrees proof (or 90% absolute alcohol), which, in the case at bar, is not disputed.

The conclusion of the tax court, that it behooved the taxpayer to show for what purposes the alcohol not denatured with gasoline was devoted, is not warranted by the statute. On the contrary, it is manifest therefrom that the burden is laid by law upon the Internal Revenue authorities to prove that the taxed alcohol was actually removed for uses other than motive power. And we see nothing in the evidence from which to infer for what purposes the alcohol in question was actually put. Yet the revenue officers possessed in Insilay's report the names and addresses of the purchasers. Why then was none of them produced to support the thesis of the government?

The government's failure of proof is all the more inexcusable in view of the second indorsement, Hay 26, 1958, of the Revenue Operations Executive (Legal) pointing to this particular deficiency (B. I. R. Record, C. T. A. 645, pp. 144-145), which is marked Exhibit "D":

"Section 142 (d) of the Tax Code imposes the specific tax at the rate of one-half centavo per liter of volume

capacity on denatured alcohol to be used for motive power. However, if the denatured alcohol is mixed with gasoline, the specific tax on which has been paid, only the alcohol content shall be subject to the specific tax of one-half centavo per liter. From this provision, it can be concluded that denatured alcohol when mixed with gasoline is not the only instance wherein said alcohol is to be used for motive power. In other words, denatured alcohol may be removed from the distillery to be used for motive power, without being mixed with gasoline. As a matter of fact, the same section 142 (d) provides that the removal of denatured alcohol of not less than one hundred eighty degrees proof (ninety per centum absolute alcohol) shall be deemed to have been removed for motive power, unless shown to the contrary.

In view thereof, it is requested that the investigating agent be instructed to make specific findings as to the purposes for which the denatured alcohol upon which the sales tax is being imposed was removed. Said purposes should be described in detail. If the denatured alcohol, although not mixed with gasoline, was removed for motive power, then it is subject to the specific tax imposed under section 142 (d) of the Tax Code. However, if the denatured alcohol in question was removed for the purposes mentioned in section 128 of the Tax Code, before its amendment by Republic Act 1608, then it is subject to the sales tax. As this case may possibly reach the Court of Tax Appeals, the said findings are necessary in order to strengthen our case against the taxpayer. Likewise, it is requested that the report of the investigating agent be submitted with the least possible delay."

The same observation is made on the insilay report by the Chief of the Legal Department on June 16, 1955 (B. I. R. record, p. 148).

Contrary to these recommendations of the legal division of the revenue bureau, the report of Insilay (upon which the state relies) contains no specific findings in detail as to the purposes for which the non-gasoline denatured alcohol was withdrawn other than the segregation of sales of gasoline denatured alcohol from those of alcohol mixed with other substances. The description of the latter as alcohol removed for industrial purposes is conjecture pure and simple, no data being given how the same was arrived at. And since conjecture is not evidence, the Tax Court committed an error of law in holding that the presumption in favor of removal of the alcohol for motive power has been overcome.

The Solicitor General laid stress on the part of the Insilay report that the Central officials "averred that they were not duly advised of the existing sales tax law and regulation on the sales of denatured alcohol sold for industrial purposes", but does not attempt to establish how such ignorance could prove that the alcohol not denatured with gasoline was not withdrawn for motive power, as the law presumes.

In view of the foregoing, the decision of the Court of Tax Appeals is reversed, and the petitioner Central Azucarera Don Pedro absolved from the disputed assessment for sales taxes and surcharge. No costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., and Sanchez, JJ., concur.

[1] See Sec. 188 (a), Revenue Code, which exempts from sales tax articles subject to specific tax. Conversely, articles which are exempt from specific tax are subject to the sales tax.

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.