

SONG KIAT CHOCOLATE FACTORY, PLAINTIFF AND APPELLANT, VS. CENTRAL BANK OF THE PHILIPPINES AND VICENTE GELLA, IN HIS CAPACITY AS TREASURER OF THE PHILIPPINES, DEFENDANTS AND APPE...*G. R. No. L-8888. November 29, 1957*

Ponente: BENGZON, J.

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The question in this appeal is whether cocoa beans may be considered as "chocolate" for the purposes of exemption from the foreign exchange tax imposed by Republic Act No. 601 as amended.

During the period from January 8, 1953 to October 9, 1953, the plaintiff-appellant imported sun-dried cocoa beans for which it paid the foreign exchange tax of 17 per cent totalling P74,671.04. Claiming exemption from said tax under section 2 of same Act, it sued the Central Bank that had exacted payment; and in its amended complaint it included the Treasurer of the Philippines. The suit was filed in the Manila Court of First Instance, wherein defendants submitted in due time a motion to dismiss on the grounds: first, the complaint stated no cause of action because cocoa beans were not "chocolate"; and second, it was a suit against the Government without the latter's consent.

The Hon. Gregorio S. Narvasa, Judge, sustained the motion, and dismissed the case by his order of November 19, 1954. Hence this appeal.

The lower court, appellant contends, erred in dismissing the case and in holding that the term "chocolate" does not include sun-dried cocoa beans.

SEC. 2 of the aforesaid Act provides that "the tax collected or foreign exchange used for the payment of costs transportation and/or other charges incident to importation into the Philippines of rice, flour * * * soya beans, butterfat, chocolate, malt syrup * * * shall be refunded to any importer making application therefor, upon satisfactory proof of actual importation * * *."

In support of its contention appellant quotes from dictionaries and encyclopedias interchangeably using the words "chocolate", "cacao" and "cocoa". Yet we notice that the quotations refer to "cocoa" as chocolate nut" "chocolate bean" or "chorolate tree." And the legal exemption refers to "chocolate"—not the bean, nor the nut nor the tree. We agree with the Solicitor General and the other counsel of respondents that in common parlance the law, is presumed to refer to it [1]—chocolate is a manufactured or finished product made out of cocoa beans, or "cacao" beans as they are locally known. We may take notice of the fact that grocery stores sell powdered cocoa beans as chocolate, labeled "cocoa powder", or simply "cocoa". They are, however, really chocolate; they are not cocoa beans. The manufacture of chocolate involves several processes, such as selecting and drying the cocoa beans, then roasting, grinding, sieving and blending². Cocoa beans do not become chocolate unless and until they have undergone the manufacturing processes above described. The first is raw material, the other finished product.

The courts regard "chocolate" as

"Chocolate" is a preparation of roasted cacao beans without the abstraction of the butter and always contains sugar and added cacao butter. *Rockwood & Co., vs. American President Lines*, D. C. N. J., 68 F. Supp. 224, 226.

Chocolate is a cocoa bean roasted, cracked, shelled, crushed, ground, and. molded in cakes. It contains no sugar, and is in general use in families. Sweetened chocolate is manufactured in the same way but the paste is mixed with sugar, and is used by confectioners in making chocolate confections. *In re Schiling*, 53 F. 81, 82, 3 C. C. A. 440.

In view of the foregoing, and having in mind the principle of strict construction of statutes exempting from taxation,[3] we are of the opinion and so hold, that the exemption for "chocolate" in the above section 2 does not include "cocoa beans". The one is raw material, the other manufactured consumer product; the latter is ready for human consumption; the former is not.

However, we cannot stop here, because in August 1954— suit was brought in May 1954—Congress approved Republic Act 1197 amending section 2 by substituting "cocoa beans" for "chocolate." This shows, maintains the appellant, the Legislature's intention to include cocoa beans in the word "chocolate." In fact, it goes on, the Committee Chairman who reported House Bill No. 2576 which became Republic Act 1197, declared before the House:

"Mr. Roces: Mr. Speaker, on line 8 page 1, after the word 'canned', strike out the words, 'fresh, frozen and*' and also the words 'other beef, on line 9 and on the same line, line 9, after the word 'chocolate', insert the words '(COCOA BEANS)' in parenthesis (). I am proposing to insert the words '(COCOA BEANS)' in parenthesis () after the word 'chocolate', Mr. Speaker, in order to clarify any doubt and manifest the intention of the past Congress that the word 'chocolate' should mean 'cocoa beans.'

In reply to this, appellees point out that said chairman could not have spoken of the Congressional intention in approving Republic Act 601 because he was not a member of the Congress that passed said Act. Naturally, all he could state was his own interpretation of such piece of legislation. Courts do not usually give decisive weight to one legislator's opinion, expressed in Congressional debates concerning the application of existing laws.[4] Yet even among the legislators taking part in the consideration of the amendatory statute (Republic Act 1197) the impression prevailed that, as the law then stood[5] chocolate candy or chocolate bar was exempted, but cocoa beans were not. Here are Senator Peralta's statements during the discussion of the same House Bill No. 2576:

* * * * *

"SENATOR PERALTA: I signed that conference¹ report and I am . really bound by it, but, Mr. President, a few hours ago I received some information, which maybe the chairman would like to know, to the effect that we allow chocolate bar, chocolate candy to come into this country exempt from the 17 per cent tax when we do not allow cocoa beans, out of which our local manufacturers can make chocolate candy, exempted. So why do we not take off that exemption for chocolate and instead put 'cocoa beans' so as to benefit our manufacturers of chocolate candy?

* * * * *

SENATOR PERALTA: Yes, I agree with the chairman, only I was just wondering if the chairman, might not consider the fact that in view of the information, this seems to be inconsistent—we allow chocolate to come here exempt and not exempt cocoa beans which is used by our manufacturers in making" chocolate candy

And Senator Puyat is quoted as saying in the same connection :

"Mr. PRESIDENT, on the same page (page 1), line 9, delete "cocoa beans". The text as it came to the Senate

was misleading. In the original law the exemption is for chocolate, and the version that we got from the Lower House is "(cocoa beans)" giving the impression that chocolate and cocoa beans are synonyms. Now I think this is a sort of a rider, so your committee recommends the deletion of those words.*" (Journal of the Senate, July 30, 1954, re H. B. No. 2576, italics ours.)

Other parts of the Congressional record quoted in the briefs would seem to show that in approving House Bill No. 2576, the Congress agreed to exempt "cocoa beans" instead, of chocolate with a view to favoring local manufacturers of chocolate products.[6] A change of legislative policy, as appellees contend[7]—not a declaration or clarification of previous Congressional purpose. In fact, as indicating the Government's new policy of exempting for the first time importations of "cocoa beans," there is the President's proclamation No. 62 of September 2, 1954 issued in accordance with Republic Act No. 1197 specifying that said exemption (of cocoa beans) shall operate from and after September 3, 1954—not before. As a general rule, it may be added, statutes operate prospectively.

Observe that appellant's cocoa beans had been imported during January-October 1953, i.e. before the exemption decree.

After the foregoing discussion, it is hardly necessary to express our approval of the lower court's opinion about plaintiff's cause of action, or the lack of it. And it becomes unnecessary to consider the other contention of defendants that this is a suit against the Government without its consent.

The order of dismissal is affirmed, with costs against appellant.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1] "'As a general rule words used in a statute are to be given their usual and commonly understood meaning* * *

[2] "CF. Encyclopedia Americana (1954) Vol. V, p. 129, 180; Encyclopedia Britanica, Vol. 5 (1948 ed.) p. 948.

[3] Exemptions are never presumed, the burden is on the claimant to establish clearly his right to exemption and an alleged grant of exemption will be strictly construed and cannot be made out by inference or implication but must be beyond reasonable doubt. In other words, since taxation is the rule and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms. (Cooley on Taxation, 4th ed. Vol. 2 p. 1803.)

[4] Interpretation of laws is for the Courts (See C.J.S. pp. 745, 746). Even statues declaring "what the law was before" are not binding on courts. Endencia vs. David, 93 Phil., 696, 49 Off. Gaz., 4825.

[5] Section 2 of Republic Act'601 was amended first by Republic Act 814 and later by Republic Act 871. In both amendments "chocolate" was retained.

[6] Whereas the exemption of "chocolate" aimed to benefit the consumers thereof.

[7] See footnote 5.

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