

PHILIPPINE MANUFACTURING COMPANY, PETITIONER VS. COLLECTOR OF INTERNAL REVENUE, RESPONDENT.

G.R. No. L-13355. January 28, 1961

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition filed by the Philippine Manufacturing Company under section 18, Republic Act No. 1125, for review of a judgment rendered by the Court of Tax Appeals ordering the petitioner to pay the Government the sum of P6,516.75 as specific tax on 43,445 lineal meters of cinematographic films at the rate of P.15 per lineal meter it had ordered produced by the Smith Sound System Laboratories from 19 May 1951 to 28 July 1956 (C.T.A. Case No. 309).

On 23 June 1955 the Collector of Internal Revenue assessed the Smith Sound System Laboratories as follows:

Specific tax on 65,084 lineal meters of cinematographic films produced from 19 May 1951 to 29 December 1954 at the rate of P.15 per lineal meters

P9,762.60

Less specific tax paid on 2,967 lineal meters on 29 April 1953 (O. R. No. 389519)

445.05

Deficiency specific tax due

P9,317.55

Specific tax on 1,498 lineal meters of cinematographic films entitled "Sex Gang" produced prior to 19 February 1955 for export at P.15 per lineal meter

224.70

Penalty imposed by section 124 of the National Internal Revenue Code for removal of cinematographic films produced without prepayment of specific tax

500.00

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Total amount assessed and demanded

P10,042.25

and demanded payment of the total sum of P10,042.25 (pp. 24-25, BIR rec.) On 8 July 1955 the Smith Sound

Systems Laboratories wrote to the Collector of Internal Revenue requesting reconsideration and countermanding of the assessment on the ground that with respect to the 65,084 lineal meters of cinematographic films it had produced, they were educational films, hence exempt from payment of specific tax and that with respect to the 1,498 lineal meters of cinematographic films produced for export, they were still trying to secure from Mr. A. B. Garcia of Deegar Cinema, Inc., who was in Europe, a copy of the export papers (pp. 26-27, BIR rec.). On 14 April 1956 the law office of Ozaeta, Lichauco & Picazo, counsel for the petitioner, wrote to the respondent informing him that 30,920 lineal meters out of the 65,084 lineal meters of cinematographic films produced by Smith Sound Systems Laboratories from 19 May 1951 to 29 December 1954 had been produced at the petitioner's instance; that if any tax was due on those 30,920 lineal meters of cinematographic films, it was the petitioner who should pay the same; that those cinematographic films were "educational films or cinematographic films used for visual education," which are expressly exempted by Section 146 of the National Internal Revenue Code from the payment of the specific tax;" and that the said films were being exhibited free of charge to the general public especially in the rural areas by the petitioner (pp. 46-47, BIR rec.). On 28 July 1956 the same law office again wrote to the respondent to follow up its letter dated 14 April 1956 and to inform him that from 1955 to 28 July 1956, the Smith Sound Systems Laboratories had produced for the petitioner 12,525 lineal meters or more of cinematographic films which were also "educational films or cinematographic films used for visual education;" and that the said letter dated 14 April 1956 "apply with equal force to these latter films" (p. 50, BIR rec.). On 6 August 1956 the respondent answered counsel that "while it is true that the cinematographic films in question were used by our client, The Philippine Manufacturing Company, to give information regarding the proper nutrition and hints on health to the barrio people, yet it has been definitely established that the primary purpose of your client in producing the said cinematographic films was to use the same as the media or vehicles in the promotion or advertisement of its products," and requested counsel to advise the petitioner "to pay the amounts of P6,782.70 and P500 as specific tax and penalty, respectively, or a total of P7,282.70" (Exhibits M, M-1, p. 54, BIR rec.). On the same date, 6 August 1956, the respondent assessed the petitioner as follows:

Specific tax on 32,693 lineal meters of cinematographic films produced from 19 May 1951 to 29 December 1954 at the rate of P.15 per lineal meter

P4,903.95

Specific tax on 12,525 lineal meters of cinematographic films produced from 1955 to 28 July 1956 at the rate of P.15 per lineal meter

1,878.75

Penalty imposed by section 124 of the National Internal Revenue Code for Removal of cinematographic films produced without prepayment of specific tax

500.00

Total amount assessed and demanded.

P7,282.70

and demanded payment of the total sum of P7,282.70 within five days from receipt thereof (Exhibit 3, p. 56, BIR rec). On 24 August 1956 the petitioner appealed from the foregoing assessment made by the respondent to the Court of Tax Appeals. On 15 September 1956 the respondent filed his answer on the petition for review, reiterating his previous stand on the matter. After hearing, on 29 November 1957 the Court of Tax Appeals rendered judgment, the dispositive part of which is as set forth at the beginning of this opinion. On 16 January 1958 the

petitioner filed a notice of appeal from the foregoing judgment in the Court of Tax Appeals and its petition for review in this Court.

The Court of Tax Appeals found and held that only the total of 43,445 lineal meters of cinematographic films are subject to specific tax, because 1,773 lineal meters of the same films had been returned by the petitioner to the producer. However, it declined to order the petitioner to pay the compromise penalty of P500 for the reason that it is not within its competence to compel the petitioner to accept a compromise penalty, the acceptance thereof being left to its pleasure.

There is no dispute that 43,445 lineal meters of cinematographic films had been produced by the Smith Sound Systems Laboratories for the petitioner and that if any specific tax be held legally due thereon, the latter would pay it. The only question to be resolved in this appeal is whether or not the cinematographic films in question are subject to specific tax imposed by section 146 of the National Internal Revenue Code, as amended by Republic Act No. 295. The said section provides:

There shall be collected, only on cinematographic films, except educational films, or cinematographic films used for visual education, imported into or manufactured in the Philippines, the following taxes:

(a) On films of more than eight but not more than sixteen millimeters in width, fifteen centavos per lineal meters; and

(b) On films of more than sixteen millimeters in width, twenty centavos per lineal meter.

This tax shall not be collected on any taxpaid cinematographic films subsequently returned to the Philippines or unprinted positive film, and on any reversal film used in amateur photography of sixteen millimeters or less, and any taxes heretofore paid on cinematographic films so returned, or on any negative films or unprinted positive films, or on any reversal film, shall be refunded subject to the provisions of section three hundred and nine.

To be exempt from payment of specific tax imposed by the aforequoted section of the National Internal Revenue Code, it must be shown that the cinematographic films imported into or manufactured in the Philippines are "educational films or cinematographic films used for visual education."

Summarizing the evidence presented by the petitioner in support of its contention that the cinematographic films in question are educational or used for visual education the Court of Tax Appeals said:

To justify its claim for exemption, petitioner, as above-stated, exhibited before the Court samples of the films in question, which were picked at random. One film, entitled "How to Wash with Lava", showed a woman washing clothes with "Lava" soap, a produce of the petitioner. Another film, entitled "Cooking is Fun", depicted a woman demonstrating cooking techniques before a group of women. It emphasized the advantages of using "Purico" lard, a produce of petitioner. The other films portrayed young people engaged in recreational activities such as picnics and outings. These films were subtly produced to induce the unschooled mind to inextricably associate the happy atmosphere obtaining in those gatherings with the utility of "Star Margarine", another produce of petitioner.

* * * * *

Petitioner's own exhibits (Exhibits A to L), which are purportedly letters from Municipal Mayors and various heads of different civic organizations requesting and/or thanking petitioner for free shows in the respective communities, bolster the court's findings that the subject films are not principally for educational purpose. Nowhere in said exhibits can we single out any indication, confirmatory of the contention that said films are educational. On the contrary, these exhibits lead to the observation that the free exhibition of the films in question was requested and petitioner was thanked for the entertainment derived from the films.

The foregoing findings of the Court are not disputed but confirmed by the petitioner in its brief, as follows:

* * * In the case of the film showing how to clean and wash clothes despite the use of a small quantity of soap, the picture showed that the soap being used was one of those manufactured by petitioner, Philippine Manufacturing Co. The wrapper of this soap bearing the name and brand was prominently displayed. In the case of the film showing the importance of vitamins and other nutritious elements that may be found in certain products and how food should be properly cooked, the film showed that the vegetable lard or shortening used by the cook who was explaining how to properly cook food was Purico lard or, in other words a shortening also manufactured by the petitioner-company. In the case of the film showing how a farmer can harvest a hundred cavans of rice from a hectare of land through the Margate System, none of the products manufactured by petitioner appeared in the picture for the simple reason that the petitioner does not manufacture any product used in the planting or cultivation of rice. The only advertising value of the picture derived by petitioner was the announcement to the effect that the said film was being shown through the courtesy of the Philippine Manufacturing Co. (pp. 23-24, petitioner's brief.)

The cinematographic films in question are, therefore, not solely "educational films or cinematographic films used for visual education." Their main purpose is to advertise the petitioner's products, and whatever information or lesson and educational value they tend to give, convey or impart to the viewers are but incidental to the main purpose. The petitioner is not a civic institution founded solely for the noble purpose of serving the people, but a corporation organized for profit. It is engaged in the manufacture of soap, lard and similar products. To have its products known and bought by the people, the petitioner have to resort to promotion or advertisement through the use of cinematographic films, which is one of the media employed in modern advertising. While the cinematographic films in question disseminate educational and instructive information to the viewers, the petitioner's products are portrayed as the effective means of bringing about a desired result and it is announced that the information is being disseminated through the courtesy of the petitioner that manufactures soap, lard and similar products. To follow the petitioner's argument that advertising is in itself a form of education and any cinematographic film that tends to educate, disseminate information or convey a moral lesson is, exempt from payment of specific tax imposed by section 146 of the National Internal Revenue Code, as amended, would result in an absurd interpretation of the law which Congress never intended. If such be the case, then no cinematographic film may be taxed thereunder in the guise of educational value. For even the ordinary cinematographic films exhibited in commercial theaters have an educational value for they tend to convey a moral lesson or disseminate information. What the law intends to exempt are only those used for educational purpose or those employed for visual education. In determining what are educational cinematographic films or those used for visual education, the circumstances and purposes of the person, corporation, institution or organization importing or manufacturing or causing them to be imported or manufactured, should be taken into consideration. In the case at bar, since their educational quality are but incidental to the main purpose of promoting or advertising the petitioner's products, they can not fall within the class exempt from the payment of specific tax imposed by section 146 of the National Internal Revenue Code, as amended.

The judgment under review is affirmed, with costs against the petitioner.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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