

NORTH CAMARINES LUMBER CO., PLAINTIFF AND APPELLEE, VS. SATURNINO DAVID, ETC., DEFENDANT AND APPELLANT.

G.R. No. L-6125. March 31, 1955

Ponente: JUGO, J.

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JUGO, J.:

This is an appeal from the decision of the Court of First Instance of Manila ordering the refund of the sum of P3,000 by the Collector of Internal Revenue to the appellee, the North Camarines Lumber Co., Inc.

The facts of the case may be briefly stated as follows:

On June 21, 1946., the North Camarines Lumber Co., Inc., purchased one motor vessel known as M/V Mercedes from the Foreign Liquidation Commission for the sum of P60,000 and upon said purchase the appellant assessed and collected the sum of P2,100 as compensating tax which the appellee paid on said date. On November 19, 1946, the appellee again purchased 6 barges from the Foreign Liquidation Commission for the sum of P18,000 and the appellant assessed and collected the sum of P900 as compensating tax which the appellee paid on the same date. On various dates from September 29, 1947 to October 11, 1948, inclusive, the appellee purchased from the Foreign Liquidation Commission various vessels with their equipment and appurtenances. On said various purchases the appellant assessed and collected the sum of P8,045 as compensating tax which the appellee paid on various dates from September 29, 1947 to October 11, 1948, inclusive. This sum of P8,045 has already been refunded by the Collector of Internal Revenue to the plaintiff-appellee, leaving a balance of P3,000 which is the amount in question herein, it being the sum that the lower court ordered the defendant-appellant to refund to the plaintiff-appellee. The above mentioned vessels were bought abroad and the taxes on them were assessed and collected under the provisions of section 190 of Commonwealth Act No. 466 known as National Internal Revenue Code as amended by section 2 of Republic Act No. 253. Said section reads as follows:

"Sec. 2. Section one hundred and ninety of Commonwealth Act Numbered Four hundred and sixty-six as last amended by section eight of Republic Act Numbered Forty-eight, is hereby further amended to read as follows:

"Sec. 190. Compensating tax.—All persons residing or doing business in the Philippines, who purchase or receive from without the Philippines any commodities, goods, wares, or merchandise, excepting those subject to specific taxes under Title IV of this Code, shall pay on the total value thereof at the time they are received by such persons, including freight, postage, insurance, commission, and all similar charges, a compensating tax equivalent to the percentage tax imposed under this Title on original transactions effected by merchants, importers, or manufacturers, such tax to be paid upon the withdrawal or removal of said commodities, goods, wares, or merchandise from the customhouse or the post office: Provided, however, That merchants, importers, and manufacturers, who are subject to tax under sections one hundred eighty-four, one hundred eighty-five, one hundred eighty-six, or one hundred eighty-nine of this Title shall not be required to pay the tax herein imposed where such commodities, goods, wares, or merchandise purchased or received by them from without the Philippines are to be sold, resold, bartered, or exchanged or where the same are to be used in the manufacture or preparation of articles for sale, barter, or exchange and are to form part thereof: And provided

further, That the tax imposed in this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax, or those for consignment abroad and are to form part thereof. If any article withdrawn from the customhouse or the post office without payment of the compensating tax is subsequently used by the importer for other purposes, corresponding entry should be made in the books of accounts, if any are kept, or a written notice thereof sent to the Collector of Internal Revenue and payment of the corresponding compensating tax made within thirty days from the date of such entry or notice and if the tax is not paid within such period the amount of the tax shall be increased by twenty-five per centum, the increment to be a part of the tax.

"The tax herein imposed shall not be assessed or collected on any single shipment consigned to any single person when the total value of such shipment does not exceed one hundred pesos. Goods brought by residents returning from abroad, the value of which does not exceed five hundred pesos, are exempt from this tax."

On June 9, 1949, section 190 was further amended by Republic Act No. 361 by adding at the end thereof the following paragraph:

"The phrase 'commodities, goods, wares, or merchandise,' as used in this title, shall not be construed as to include vessels, their equipment and/or appurtenances purchased or received from without the Philippines, before or after the taking effect of this Act."

The Act took effect on its approval on June 9, 1949.

The appellee asked in the lower court for the refund of the sum of P2,100 paid by it to the Collector of Internal Revenue on June 21, 1946, and the sum of P900 also paid by it on November 19, 1946.

The question to be decided now is the effect of Republic Act No. 361 which reads "The phrase 'commodities, goods, wares, or merchandise,' as used in this title, shall not be construed as to include vessels, their equipment and/or appurtenances purchased or received from without the Philippines, before or after the taking effect of this Act." The appellant contends that those taxes which were paid within two years before the filing of the complaint in the Court of First Instance of Manila on September 29, 1949, should be refunded but not those paid before the two-year period prior to September 29, 1949, because the action to recover them has prescribed under Section 306 of the National Internal Revenue Code which provides, among other things, that "No suit or proceeding shall be maintained in any Court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Collector of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty or sum has been paid under protest or duress. In any case, no suit or proceeding shall be begun after the expiration of 2 years from the date of payment of the tax or penalty."

On the other hand, the appellee maintains that any compensating tax paid at any time before or after the taking effect of Republic Act No. 361 on June 9, 1949, should be refunded.

According to the theory of the appellee all compensating taxes paid on vessels purchased abroad at any time before June 9, 1949, shall be refunded without any limitation as to the time at which they were bought. This theory is so sweeping with regard to the time prior to the enactment of Republic Act No. 361 as to make such time limitless and infinite or from the beginning of the World. It is logical to conclude that Congress did not mean to repeal the two years' prescription established by Section 306 of the National Internal Revenue Code with regard to the refund of the compensating taxes in question for the reason that it would be absurd. If Congress had meant to repeal the prescription provided for in Section 306 above mentioned, it would have said so in express terms as it did in similar Acts such as Republic Act No. 210, for the refund of taxes on amounts received from the United

States Army for services, which should be refunded upon application to the Collector of Internal Revenue, and the tax on war damage payments which should be accredited to the taxpayer if such credit is requested within one year from the approval of Republic Act No. 227. Repeals by implication are not favored, especially if such repeal leads to unreasonable and unexpected results.

In view of the foregoing, the judgment appealed from is reversed and the defendant-appellant is absolved from the complaint, without pronouncement as to costs. It is so ordered.

Paras, C.J., Pablo, Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

Judgment reversed.

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