

## **PHILIPPINE PACKING CORPORATION, PETITIONER AND APPELLANT, VS. THE COLLECTOR OF INTERNAL REVENUE, RESPONDENT AND APPELLEE.**

*G.R. No. L-9040. December 26, 1956*

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

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### **REYES, J.B.L., J.:**

Appellant Philippine Packing Corporation is a domestic corporation engaged in the growing and canning of pineapples in Mindanao for sale locally and abroad. Approximately 120,000 tons of pineapple every year are produced by appellant from its plantations, out of which it sells or gives away in fresh state 50,000 tons which are not suitable for canning, for which it is not taxed, and the rest are canned into sliced pineapple, pineapple chunks, crushed pineapple, and pineapple juice.

According to the decision of the Court of Tax Appeals, the appellant subjects the fresh fruit to the following process :

"Pineapple fruits are harvested from the plants. After they are washed, peeled and sorted, then sliced, cubed, or crushed, the raw materials are placed in cans. The residual air is removed and heavy syrup, made up from a mixture of juice and sugar, is added. The cans are closed. Heat is applied to sterilize the contents, after which the cans are cooled rapidly. With respect to the canned pineapple juice, no sugar is added. Unless preserved in tin cans, fresh pineapple fruits are very perishable and will not keep longer than two days." (Annex "A" p. 13)

On October 15, 1948, appellant sent the then Collector of Internal Revenue Bibiano Meer a letter quoted as follows :

"We wish to refer to your letter dated July 20, 1948 in which you have requested that we file a bond to cover any possible sales of our pineapple products in the Philippines.

We have recently taken some orders for canned pineapple here in Manila and we will be shipping the goods from Bugo early next. week.

According to your letter we have to pay 5% tax prior to shipping these goods, however, we are of the opinion it is not necessary for us to pay this tax under Section 188 (b) of the Internal Revenue Code, since our operation is entirely agricultural.

We will appreciate receiving your decision on the above at your earliest convenience and we would like to take this opportunity to thank you for your kind attention to our matters in the past.\*\* (Exhibit "A")

to which Collector Meer replied:

"In reply to your letter dated October 15, 1948, I have the honor to inform you that sales in this country of the pineapple products which you produce herein are exempt from the sales tax imposed in section 186 of the National Internal Revenue Code, in accordance with section 188 (b) of the same code." (Exhibit "B")

Six years later, on January 13, 1954, appellant received a letter from the appellee Collector of Internal Revenue through Deputy Collector Silverio Blaquera, demanding payment of P196,060.69 as fixed and percentage taxes and surcharges on its domestic sales of pineapple products since October, 1948 to September, 1953, plus the additional sum of P1,000 as penalty for alleged violation of the Internal Revenue Law. From the decision of the Collector, appellant appealed to the defunct Board of Tax Appeals, which was succeeded by the Court of Tax Appeals under Republic Act No. 1125. On January 31, 1955, the Court of Tax Appeals affirmed the decision of the Collector of Internal Revenue and on April 11, 1955 denied appellant's motion for reconsideration. Wherefore, appellant filed before this Court a petition for review.

The main issue is whether the domestic sales of pineapples and pineapple products grown and canned by appellants are exempted from tax under Section 188 (b) of the Internal Revenue Code, providing:

"SEC. 188. Transactions and persons not subject to percentage tax,—In computing the tax imposed in sections one hundred eighty- four, one hundred eighty-five, and one hundred eighty-six, transactions in the following commodities shall be excluded:

\* \* \* \* \*

"(b) Agricultural products and the ordinary salt when sold, bartered, or exchanged in this country by the producer or owner of the land where produced, as well as fish and its by-products when sold, bartered or exchanged by the fisherman or fishing operator, whether in their original state or not" (Italics supplied)

We find ourselves unable to agree with the Court of Tax Appeals that because the manipulations to which appellant subjects the fresh pineapple fruit grown by it amount to a manufacturing process, that the sale of the canned products becomes a taxable sale of manufactured goods, and not an exempt sale of agricultural products. The very text of the law, in exempting "agricultural products whether in their original state or not," makes it clear that the exemption is not divested merely because the products themselves have undergone processing of some kind. At what particular stage the extent of the manufacturing process extinguishes or supersedes the agricultural character of the product can not be predetermined in advance. But such uncertainties are no obstacle to the application or refusal of the exemption in specific cases. We believe the case before us can be determined following the test set by this Court in *Central Azucarera de Bais vs. Trinidad*, 46 Phil. 492, 499:

"A planter who devotes himself to the production of sugar cane and as an incident to such production works his product into a more convenient and valuable form is primarily a planter; his manufacturing is merely an incident to the management of his plantation. His case is manifestly different from that of the plaintiff corporation which, in, effect, buys its raw materials and devotes itself exclusively to converting it into finished merchandise. It may, perhaps, not always be easy to draw the line of demarcation between one business and the other, but difficulties of that sort are frequently encountered in the interpretation of the law."

The facts on record in the case before us clearly indicate that the canning of appellant's products is a mere incident and consequence of its large scale production of pineapples. Appellant perforce had to resort to a preserving process, for the volume of its products (170,000 tons) made it impossible to dispose of the same in the local market. The pineapples could not be sold in the open market unless properly ripened; on the other hand, once ripened, the fruit would quickly deteriorate, and become unsalable, unless the deterioration was arrested by some preservative process, which thus becomes an essential part of the production and disposition of the fruit. We believe that the legislature, in providing a tax exemption for agricultural products, "whether in their original state or not", had precisely in mind that fruit crops could not be raised and sold on a large scale without resort to some process to prevent their deterioration.

The state has not shown that the canned products of appellant corporation have acquired, as a consequence of the

processing to which they are subjected, any use to which the original fruit was not suited, or could not be devoted. It is practically admitted (and the Court may well take judicial cognizance thereof) that the nature, qualities and texture of the product are in no way altered, and it distinctly remains an agricultural product. Certainly the canned pineapples as compared to the original fruit have undergone much less change than that found in the case of centrifugal sugar obtained from the sugar cane or of abaca-fiber when compared with the raw plant stalks. And yet the state admits, that the sugar from the cane is exempt from the tax under sec. 188(6) of the Internal Revenue Code.

That the purpose of the tax exemption now in question was to foster agriculture and the utilization of idle lands was recognized in *Molina vs. Rafferty*, 38 Phil. 167. Passing upon this very exemption, the Court said (p. 169-170):

"The first inquiry, therefore, must relate to the purpose of the Legislature had in mind in establishing the exemption contained in the clause now under consideration. It seems reasonable to assume that it was due to the belief on the part of the law making body that by exempting agricultural products from this tax the farming industry would be favored and the development of the resources of the country encourage. It is a fact, of which we take judicial cognizance, that there are immense tracts of public land in this country, at present wholly unproductive, which might be made fruitful by cultivation, and that large sums of money go abroad every year for the purchase of food substances which might be grown here. Every dollar's worth of food which the farmer produces and sells in these Islands adds directly to the wealth of the country. On the other hand, in the process of distribution of commodities to the ultimate consumer, no direct increase in value results solely from their transfer from one person to another in the course of commercial transactions. It is fairly to be inferred from the statute that the object and purpose of the Legislature was, in general terms, to levy the tax in question, significantly termed the 'merchant's tax,' upon all persons engaged in making a profit upon goods produced by others, but to exempt from the tax all persons directly producing goods from the land. In order the accomplish this purpose the Legislature, instead of attempting an enumeration of exempted products, has grouped them all under the general designation of 'agricultural products.'"

The position of appellant corporation comes squarely under this ruling. It directly produces its goods from the cultivation of land, merely engaging in the suitable preservative processes for the purpose of making the product available at all times, without regard to seasons, and in markets that would not be accessible to the fresh fruit. Appellants does not make its profit upon goods produced by others, and there is no reason why it should not be given the protection that the law affords.

"Public policy has long favored the exemption of agricultural producers from the taxation of the methods employed by them to put their products upon the market, for the preparation, transportation, and direct sale by the farmer of produce raised by himself is not engagement in a trade, but incident to his business of production. Thus, the exemption or especially favorable classification of farmers, their produce, or their vehicles hauling agricultural products to markets in statutes imposing business occupational, and sales taxes, in statutory trade license provisions, and in highway transportation tax or registration laws, has in a number of cases been held to be based upon a reasonable classification." (2 Am. Jur. pp. 399-400).

The interpretation adopted by the Court of Tax Appeals would limit the benefits of the tax exemption under section 188 (b) of the Tax Code to small scale farmers and producers, who can dispose of their products within a short time after the ripening of the fruit. Where this the legislative intent, the exemption for agricultural products would have been unnecessary, since the same section already exempts, directly and expressly,—

"(a) Persons whose gross quarterly sales or receipts do not exceed four hundred fifty pesos.

(b) All persons engaged in public market places exclusively in the sale at retail of domestic meat, fruits, vegetables, game, poultry, fish and other domestic food products.

(c) Peddlers and sellers at fixed stands and other similar selling places engaged exclusively in the sale at retail of domestic meat, fruits, vegetables, game, poultry, fish, and similar domestic food products, whose total stock in trade in any one day does not reach a retail value of fifty pesos.

(d) Producers of commodities of all classes working in their own homes, consisting of parents and children living as one family, when the value of each day's production by each person capable of working is not in excess of five pesos."

With the small producers and merchants already guarded and fostered by the provisions above quoted, we see no reason why the further exemption, of agricultural products "whether in their original state or not" should not apply to large scale agricultural production and its incidental processes.

The decision in *Bermejo vs. Collector of Internal Revenue*, 47 Off. Gaz. (No. 12 Suppl.) p. 292, (upon which the state relies as overruling *Central Azucarera de Bais vs. Trinidad*, 46 Phil. 492, and *Pampanga Sugar Mills vs. Trinidad*, 53 Phil. 750), did not consider or discuss the tax exemption under section 188 (b) of the Internal Revenue Code, and therefore is not controlling here. Similarly, the American authorities cited for the State refer to manufacturers that are not the growers of the products processed by them; which is precisely the reason why the sugar mills or centrals exclusively devoted to processing the planter's sugar cane, are not exempted from the tax, being, as they are, primarily manufacturers and not producers of agricultural crops. The appellant's situation is just the contrary.

Wherefore, the decision of the Court of Tax Appeals is reversed, and the domestic sale of pineapple products of appellant, Philippine Packing Corporation, held exempt from sales tax. Without costs. So ordered.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Endencia and Felix, JJ., concur.

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## RESOLUTION

January 22, 1957

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

In a motion to reconsider our decision of December 26, 1956, the respondent Collector of Internal Revenue argues that Republic Act No. 1612 (passed-August 24, 1956), the most recent amendment to section 188 (b) of the Tax Code, furnishes an indubitable index to the true sense of Congress in enacting section 188 (b), in that the term "agricultural products" does not comprehend those which have undergone the process of manufacturing.

The argument is untenable. Comparing the provisions of section 188 (b) before and after its amendment by Rep. Act 1612, we have the following:

SEC. 188 (b) before passage of R. A. 1612    SEC. 188 (b) after passage of R. A. 1612

"(b) Agricultural products and the ordinary salt when sold, bartered, or exchanged in this country by the producer or owner of the land where produced, as well as fish and its by-products when sold, bartered, or exchanged by the fisherman or fishing operator, whether in their original state or not.

"(b) Agricultural products and the ordinary salt in their original form, when sold, bartered, or exchanged by the producer or owner of the land where produced. The term 'agricultural 'products' as used herein shall not include cultured fish and other products raised or produced in fishponds, and those which have undergone the process of

manufacturing as defined in section one hundred ninety-four (x) of this Code.

(All italics supplied)

Note that while the old provision exempts "agricultural products \* \* \* whether in their original state or not", the new amendment omitted the words "or not", limiting the exemption to "agricultural products \* \* \* in their original form", and further clarified the meaning of the phrase "in their original form" as follows:

"the term agricultural products shall not include those which have undergone the process of manufacturing as defined in section one hundred ninety-four (x) of this Code."

By the very nature of the changes made in the original statute, it is clear that the amendment is intended, not to clarify the doubtful meaning of the former law, as contended by respondent, but to withdraw from the scope of the former exemption the agricultural products that are no longer in their original form because they have undergone the process of manufacture; and this view is also supported by the explanatory note to House Bill No. 5809, the source of Republic Act 1612, wherein it is stated that "all the proposed amendments to Title V of the National Internal Revenue Code" were aimed "at greater revenue by imposing slight increase in tax rates and greater coverage of subject of taxation".

Of course, under the new amendment to sec 188. (b) of the Tax Code, the products of petitioner Philippine Packing Corporation are now subject to percentage tax; but as Republic Act No.1612 does not have any retroactive effect, there being no provision for its retroactive operation, it can only affect petitioner after, and not before, its passage and effectivity.

Wherefore the motion to reconsider is denied for lack of merit. So ordered.

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

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