

STONEHILL STEEL CORPORATION, PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.

G. R. No. 10841. March 24, 1958

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal from a resolution of the Court of Tax Appeals, dismissing the petition for review filed by petitioner, Stonehill Steel Corporation, of the decision of the Commissioner of Customs, denying the claim for refund of customs duties.

The facts in the case are not disputed. Petitioner Stonehill Steel Corporation is engaged in the manufacture of nails from nail wire. Being engaged in a new and necessary industry, on January 10, 1950, it applied for tax exemption under the provisions of Republic Act No. 35, which application was approved by the Secretary, of Finance on October 9, 1950. The tax exemption, however, did not include exemption from customs duties and so petitioner paid customs duties on its imports of nail wire from March 11, 1950 to June 22, 1953, in the amount of P95,941.57.

On June 20, 1953, Republic Act No. 901, revising and amending Republic Act No. 35, was promulgated. Under this law, new and necessary industries were exempted from the payment not only of all internal revenue taxes, but of all taxes. On June 30, 1955, the Secretary of Finance, pursuant to Republic Act No. 901, gave a certificate of tax exemption to herein, petitioner, subject, however to the requisites and conditions set forth in his letter of, the same date, June 30, 1955. Among other things, that letter stated that exemption therein extended, refers to "customs duties (effective June 20, 1953)".

On October 15, 1963, petitioner, through its president, asked the Collector of Customs for the refund of the sum of P95,941.57, representing the customs duties it had paid on its nail wire imports from March 11, 1950 to June 22, 1953, invoking the provisions of Section 4, Republic Act No. 901, which provides:

"The benefits of exemption of new and necessary industries from the payment of all taxes under this Act shall, upon the approval of the application for exemption by the Secretary of Finance, retroact as of the date of filing of the application for exemption."

and to the opinion of the Secretary of Justice, holding that exemption for all taxes, included exemption from customs duties.

The Collector of Customs on October 26, 1953, wrote the petitioner, denying the request for refund on the ground that Section 4 of Republic Act 901 applied to new and necessary industries operating under said Act, and not under Republic Act No. 35. Petitioner did not appeal from said denial. In the meantime, it assigned its right to refund to its client. But on February 26, 1954, petitioner asked the Collector of Customs for a reconsideration of his denial. On April 24, 1954, the acting Collector of Customs denied the request for reconsideration. On September 19, 1955, petitioner appealed the decision of the Collector of Customs to the Commissioner of Customs, which appeal was denied by the Commissioner of Customs on September 29, 1955. It was this order or

decision of denial of the Commissioner of Customs which was appealed to the Court of Tax Appeals on October 28, 1955.

The Court of Tax Appeals dismissed the appeal on two grounds: First, the petitioner herein failed to comply with the provisions of Sections 1370-1373 and 1380 of the Revised Administrative Code; and second, that under Republic Act No. 901, petitioner is not entitled to refund for the reason that the exemption provided in Republic Act No. 901 refers only to the period after the passage of said Act.

With regard to Sections 1370-1373 and 1380 of the Revised Administrative Code, said sections apparently refer to a ruling or decision of a collector of customs wherein liability for customs duties, fees, or other money charges is determined, in which case, the party adversely affected by such ruling, after paying the amount of the assessment, may make a protest and the Collector shall reexamine the matter, and should he overrule the protest and sustain his previous ruling, the party aggrieved is required to appeal said ruling to the Commissioner of Customs, within 15 days after notification, otherwise the ruling of the Collector becomes final and conclusive. After examining the aforecited sections of the Administrative Code, we are inclined to agree with counsel for petitioner that said sections, referring as they do to assessments made by a Collector of Customs of customs duties, fees, or other money charges, cannot refer to a case of refund, and that consequently, it was not necessary for the petitioner to appeal from the denial by the Collector of its petition for refund, to the Commissioner of Customs, within 15 days.

It is hard to imagine a case of a petition for refund being filed with, the Collector of Customs. Supposing that a collector commits a mistake in the classification of merchandise imported, and makes an illegal or erroneous assessment. The party aggrieved files a protest, but pays the amount assessed on it, and upon considering the protest, the Collector realizes his mistake and finds that he had collected an amount more than he should and amends or changes his original assessment. In that case, all that he has to do is to pay or return to the aggrieved party the excess amount, and the case is finished. But supposing that the Collector insists in his original erroneous assessment and the aggrieved party appeals his ruling to the Commissioner of Customs who, discovering the mistake in the classification of the merchandise, modifies the ruling of the Collector, and decides that there was an excess amount illegally collected by the Collector, In that case, his ruling or decision would also provide for refund to the aggrieved party and the case will then be terminated. But these two cases or examples above-mentioned really refer to assessments protested by the aggrieved party, and they are covered by Sections 1370-1373 and 1380. The law apparently has not provided for a case like the present wherein an assessment was validly made and the amount voluntarily paid by the importer, and naturally, no protest was made, but that a law passed years later provided for some sort of exemption from the payment of customs duties, and involving said new law, the importer who had previously paid customs duties voluntarily and without protest now asks for refund of said duties covered by the exemption. This part of the Customs Law would appear to need clarification, and the Commissioner of Customs or the Department Head might possibly call the attention of the Legislature.

But we prefer to decide the present case on the basic issue of whether or not petitioner is entitled, to exemption, under Republic Act No. 901, of the customs duties paid by it before the promulgation of said Act. For this purpose, we shall assume that the case involves a valid appeal from the decision of the Commissioner of Customs to the Court of Tax Appeals. As we understand the provisions of Republic Acts Nos. 35 and 901, a new and necessary industry, like the petitioner herein, has to have two separate applications, one Under Republic Act No. 35 for exemption of all internal revenue taxes, and another application for exemption under Republic Act No. 901 for exemption from the payment of all taxes, including customs duties. Section 4 of Republic Act No. 901, in speaking of the retroactivity of the benefits of exemption as of the date of the filing of the application, for exemption, clearly refers to the application for exemption under said Republic Act No, 901. As a matter of fact,

the records show that petitioner has filed such application under Republic Act No. 901. Naturally, the exemption shall retroact to the date of the filing of said application. It is to be noted that the certificate of tax exemption dated June 30, 1955, given the petitioner by the Secretary of Finance, under the provisions of Republic Act No. 901, expressly enumerated and mentioned the taxes coming under the exemption and made it clear that the exemption from customs duties was effective June 20, 1953, the date of the promulgation of Republic Act No. 901. Furthermore, and to dissipate all doubt, the intention, of the Legislature as to the scope of the phrase "retroact as, of the date of the filing of the application for exemption" in Section 4 of Republic Act No. 901, is explained and clarified in the discussion of the bill in Congress, as shown by the Congressional Record:

"Mr. CEA: * * *. Now, my question is: will the retroactive effect of this law cover the two year period during which that industry has been paying taxes to the government.

"Mr. Roy: No, it will not. It will only cover the period after the passage of this law. It will not cover the period before the passage of the present bill." (House Congressional Records Vol. 48, 2nd Congress, 4th Regular Session, April 14, 1963, pp. 47-48.)

In view of the foregoing, we hold that the petitioner is not entitled to exemption from the payment of customs duties before the promulgation of Republic Act No. 901, and consequently, is not entitled to refund of said amount. The resolution appealed from is hereby modified in the sense that the decision or ruling of the Commissioner of Customs, denying the petition for refund, is affirmed, with costs against the petitioner.

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

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