

MACONDRAY & COMPANY, INC., PETITIONER, VS. THE REPUBLIC OF THE PHILIPPINES, ET AL., RESPONDENTS.

G.R. No. 11451. July 14, 1959

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11451/>

PADILLA, J.:

This action brought by the Government in the Court of First Instance of Manila on 30 October 1952 (civil No. 18013) to collect from the defendants P587.60 as 1 ½ % percentage tax due on a transaction made in Cebu sometime in 1933 in the sum of P470.08 and 25% surcharge due thereon in the sum of P117.52 as evidenced by index card BIR Form No. 27.06 (Exhibit A), and P2,844.46 due as 25% surcharge on P11,297.85 for late payment of percentage tax for the second quarter of 1948; and to have the bonds filed by the surety company to guarantee the payment thereof forfeited, should the taxpayer fail to pay the sums sought to be collected, on 15 September 1954 after the approval of Republic Act No. 1125, upon motion of the defendant taxpayer, was certified to the Court of Tax Appeals.

On 21 April 1956 the parties submitted the following stipulation of facts:

Without prejudice to presenting such evidence as the parties may deem necessary, they hereby submit the following stipulation of facts:

- The plaintiff is a political entity with juridical capacity to sue and with principal office in the City of Manila;
- Defendants Macondray & Co., Inc. and Fidelity & Surety Company of the Philippine Islands are both corporations duly organized and existing under and by virtue of the laws of the Philippines with their principal offices in the City of Manila;
- On or about January 31, 1949, defendants subscribed to a bond in favor of the Collector of Internal Revenue, marked Annex I"A" of the complaint to guarantee the payment of the sum of five hundred eighty seven and 60/100 pesos (P587.60), for alleged taxes due if payment thereof is finally decided against Macondray & Co., Inc.;
- The only record of the plaintiff of the supposed tax assessment against Macondray & Co., Inc. is an index card, in words and figures as follows:

BIB Form No. 27.05

Macondray & Co., Inc.

Municipality -Cebu

Province-Cebu

Schedule C Date of letter — 2—25—33

Paragraph-6 Tax —1-½ %

P470.08

Surcharge 25%

117.52

P587.60

- On January 31, 1949, the defendants executed another bond marked Annex "B" of the complaint in favor of the Collector of Internal Revenue to answer for the sum of two thousand eight hundred forty four and 46/100 pesos (P2,844.46), representing twenty five per cent (25%) alleged surcharge for late payment of percentage tax for the second quarter of 1948 if payment thereof is finally decided against Macondray & Co., Inc.;

The percentage tax due the plaintiff from defendant Macondray & Co., Inc., for the second quarter of 1948, amounted to one hundred seventy seven thousand fifty eight and 26/100 pesos (P177,058.26), this amount being payable during the first twenty (20) days of July, 1948;

- That during the first twenty (20) days of July, 1948, defendant Macondray & Co., Inc., has paid to the Bureau of Customs the sum of eleven thousand two hundred ninety seven and 85/100 pesos (P11,297.85) as advance percentage tax on importation during the said first twenty (20) days of July, 1948, which is within the third quarter of 1948;

- That the defendant Macondray & Co., Inc. applied the sum of eleven thousand two hundred ninety seven and 85/100 pesos (P11,297.85) to the portion of the taxes due during the first twenty (20) days of July, 1948, thereby leaving a balance of one hundred sixty five thousand seven hundred sixty and 41/100 pesos (P165,760. 41), which was paid on July 20, 1948, by the Company, as follows:

Official Receipt No. 107501

P148,780.00

Official Receipt No. 107500

10,754.51

Official Receipt No. 107499

6,225.90

TOTAL

. P165,760.41

and at the trial of the case on 2 and 3 July 1956, the following documentary evidence: Exhibits A, B, C and D for the plaintiff and Exhibits 1, 2 and 3 for the defendants. After the parties had submitted their memoranda, the Court of Tax Appeals rendered judgment absolving the defendant taxpayer from liability for alleged unpaid percentage tax due in 1933 and surcharge thereon in the total sum of P587.60 on the sole basis of index card Exhibit A, but holding it liable for payment of P2,844.46 due as 25% surcharge on P11,297.85 for late payment of percentage tax for the second quarter of 1948. The dispositive part of the judgment reads as follows':

IN VIEW OF THE FOREGOING, Macondray & Company, Inc., together with the Fidelity & Surety Company of the Philippine Islands are hereby ordered to pay jointly and severally the sum of P2,844.46 to the plaintiff Republic of the Philippines thru the Collector of Internal Revenue. The defendants are hereby absolved of the plaintiff's claim of P587.60 and the bond executed by defendants for said sum is hereby declared of no effect.

In the event the defendant Fidelity & Surety Company of the Philippine Islands should pay the herein sum of P2,844.46 unto the plaintiff, the defendant Macondray & Company, Inc. is hereby ordered to reimburse the said Fidelity & Surety Company the same amount. With costs against defendants.

SO ORDERED

Manila, Philippines, September 28, 1956.

The defendant taxpayer filed a petition to review that part of the judgment adverse to it. The defendant surety company did not. Section 183, paragraph (A), of the National Internal Revenue Code, as amended by Republic Act No. 253, partly provides:

The percentage taxes, on business shall be payable at the end of each calendar quarter in the amount lawfully due on the business transacted during each quarter; and it shall be the duty of every person conducting a business on which a percentage tax is imposed under this Title, within twenty days after the end of each calendar quarter, to make a true and complete return of the amount of the gross sales, receipts, or earnings, or gross value of output actually removed from the factory or mill warehouse, during the preceding calendar quarter and pay the tax thereon: * * *.

Paragraph (B) of the same section and Code, as amended, partly provides:

In the case of imported articles, the percentage taxes established in sections one hundred and eighty-four, one hundred eighty-five, and one hundred and eighty-six of this Code shall be paid in advance by the importer, in accordance with regulations promulgated by the Secretary of Finance and prior to the release of such articles from customs' custody, based on the total value thereof at the time they are received by the importer, including freight, postage, insurance, commission, customs duty, and all similar charges. In the case of locally produced or manufactured articles, the percentage taxes established in the said sections shall likewise be paid in advance on the total value thereof prior to removal from the producer's or manufacturer's warehouse. The amount so paid in advance in accordance with this subsection shall be credited against the percentage taxes due on the sales by the taxpayer for each calendar quarter.

Pursuant to the foregoing provision of law, on 16 June 1948 the Secretary of Finance promulgated Revenue Regulations No. V-3 (Exhibit D), published in 44 Off. Gaz. 1459-1461. Section 5 thereof provides:

It shall be the duty of every importer, manufacturer or producer, within twenty days after the end of every calendar quarter, to make a true and complete return of the amount of the gross sales during the preceding calendar quarter and pay the tax due thereon. (Sec. 183(A), National Internal Revenue Code, as amended by Republic Act No. 253.) The amount paid in advance by importers, manufacturers and producers shall be credited against the percentage taxes due on their sales for each calendar quarter. (Sec. 183, Id.)

The percentage tax on business due from the petitioner during the second quarter of 1948 (April to June) was

P177,058.26 payable within the first twenty days of July 1948. Within the first twenty days of July 1948 the petitioner paid the sum of P11,297.85 as advance percentage tax on goods or merchandise already imported and to be imported during the third quarter of 1948. When on 20 July 1948 the petitioner paid the percentage tax due for the second quarter, it considered and credited the sum of P11,297.85 as payment of the percentage tax on business due during the second quarter of 1948 (Exhibit 1) and did not claim any credit for the amount when it paid the percentage tax due for the third quarter (Exhibit 2). This the petitioner cannot do because the sum of P11,297.85 was paid in Advance as percentage tax on goods or merchandise already imported and to be imported during the third quarter of 1948. Consequently, the sum of P11,297.85 which was due for the second quarter of 1948 was not paid within the first twenty days of July 1948 as by law provided, and for that reason the surcharge of 25% or P2,844.46 was lawfully imposed. In other words, the sum of P11,297.85 paid in advance by the petitioner for goods or merchandise already imported and to be imported cannot be imputed to the percentage tax on business due for the second quarter of 1948, because such sum was paid in advance, as provided for in section 183 (B) of the National Internal Revenue Code, as amended by Republic Act No. 253, and not as a percentage tax on business, as provided for in section 183 (A) of the same Code, as amended.

The judgment under review is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Bautista Angela, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.