

MACLEOD & COMPANY, INCORPORATED, PLAINTIFF AND APPELLANT, VS. WENCESLAO TRINIDAD, COLLECTOR OF INTERNAL REVENUE FOR THE PHILIPPINE ISLANDS, AND JAMES J. RAFFERTY, DEFENDANTS AND...

G.R. No. 14471. March 18, 1920

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of the city of Manila on the 15th day of March, 1918. Its purpose was to recover the sum of P260,743.33, together with interest and costs. The plaintiff alleged that the said amount was paid by it to the defendant, under protest, as an export tax on certain merchandise, the growth and product of the Philippine Islands, exported from the Philippine Islands to various persons and firms without the Philippine Islands, during the following periods:

- (a) Between July 1, 1916, and September 30, 1916, the sum of P22,989.18;
- (b) Between October 1, 1916, and December 31, 1916, the sum of P17,701.29;
- (c) Between January 1, 1917, and March 31, 1917, the sum of P50,341.40;
- (d) Between April 1, 1917, and June 30, 1917, the sum of P45,826.21;
- (e) Between July 1, 1917, and September 30, 1917, the sum of P65,709.57; and
- (f) Between October 1, 1917, and December 31, 1917, the sum of P58,175.68.

There is no dispute about the facts. They are admitted. After hearing the evidence the Honorable James A. Ostrand, in a carefully prepared opinion, rendered a judgment in favor of the plaintiff and against the defendants, ordering the latter to return to the plaintiff the export tax collected, which was paid under protest, for the periods (a), (b), (c), (d) and (e) above mentioned; that is, the tax collected from the 1st day of July, 1916, to the 30th day of September, 1917. The lower court held that, inasmuch as the taxes collected for the period (f)—October 1, 1917, to December 31, 1917—under and by virtue of section 1459 of Act No. 2711, had been duly ratified, legalized and confirmed by the Act of Congress of June 4, 1918, the same could not be recovered; and rendered a judgment for the full amount collected for the periods (a), (b), (c), (d) and (e), which was agreed to be the sum of P202,567.45, together with interest and costs. From that judgment both parties appealed.

The following laws covering the following periods provided for an export tax on merchandise, the growth and product of the Philippine Islands, exported from the Philippine Islands to various persons and firms without the Philippine Islands:

- (1) Section 2 of Act No. 241 and section 3 of Act No. 2622, for the period of Jan. 1, 1916, to June 30, 1916;
- (2) Section 1614 of Act No. 2657, for the period of July 1, 1916, to September 30, 1917; and

(3) Section 1459 of Act No. 2711, for the period of October 1, 1917, to—.

We have heretofore held that by virtue of the Act of Congress of July 1, 1916, which expressly ratified, legalized and confirmed section 2 of Act No. 2541 and section 3 of Act No. 2622 all export taxes collected for the period of January 1, 1916, to June 30, were legal and could not be recovered. (Smith, Bell & Co. Ltd. vs. Rafferty, p. 691. ante; Compania General de Tabacos de Filipinas vs. Rafferty, R. G. No. 13889, decided February 18, 1920, not published; G. Martini Ltd. vs. Rafferty, R. G. No. 13888, decided March 10, 1920, not published.)

We have also decided that by virtue of the Act of Congress of June 4, 1918, all export taxes collected under and by virtue of section 1459 of Act No. 2711, covering the period from October 1, 1917, to December 31, 1917, were legalized, ratified and confirmed, and could not, therefore, be recovered. (Smith, Bell & Co. Ltd. vs. Rafferty, p. 691, ante; Macleod & Co. Inc. vs. Trinidad, R. G. No. 15023, decided February 14, 1920, not published; Smith, Bell & Co. Ltd. vs. Trinidad, R. G. No. 15022, decided February 14, 1920, not published.)

We have also held that all export taxes collected for the period of July 1, 1916, to September 30, 1917, not having been ratified, legalized and confirmed by the Congress of the United States, had been illegally collected, for the reason that an export tax from the Philippine Islands upon products of the Philippine Islands is expressly prohibited by section 11 of the Jones Law, which law is in conformity not only with the commerce clause of the Constitution of the United States (Par. 2, sec. 10, Art. I, Const. U. S.) but with many decisions of the Supreme Court of the United States. (Crew Levick Co. vs. Pennsylvania, 245 U. S., 292; Macleod & Co. vs. Cromwell, R. G. No. 7444, decided March 28, 1913, not published; Patapsco Guano Co. vs. Louisiana, 156 U. S., 590; McCulloch vs. Maryland, 4 Wheat, 316; Smith, Bell & Co. Ltd. vs. Rafferty, p. 691, ante; Compania General de Tabacos de Filipinas vs. Rafferty, R. G. No. 13889, decided February 18, 1920, not published; G. Martini, Ltd. vs. Rafferty, R. G. No. 13888, decided March 10, 1920, not published.)

From all of the foregoing it must follow that the export tax collected for the period of July 1, 1916, to September 30, 1917, the collection of which has not been ratified, legalized and confirmed by the Congress of the United States, is illegal; and, therefore, the judgment of the lower court should be and is hereby affirmed, without any finding as to costs. So ordered.

Arellano, C. J., Torres, Araullo, Street, and Avanceña, JJ., concur.

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