

STERLING SELECTIONS CORPORATION, PETITIONER, VS. LAGUNA LAKE DEVELOPMENT AUTHORITY (LLDA) AND JOAQUIN G. MENDOZA, IN HIS CAPACITY AS GENERAL MANAGER OF LLDA, RESPONDENTS.

G.R. No. 171427. March 30, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Petitioner Sterling Selections Corporation (petitioner) is assailing the Decision[1] dated May 30, 2005 and the Resolution[2] dated January 31, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 79889.

Petitioner is a company engaged in the fabrication of sterling silver jewelry. Its products are manufactured in the home of its principal stockholders, Asuncion Maria and Juan Luis Faustmann (Faustmanns), located in Barangay (Brgy.) Mariana, New Manila, Quezon City.[3]

Sometime in 1992, one of petitioner's neighbors in Brgy. Mariana filed a complaint with the Office of the Chairman of Brgy. Mariana against petitioner for "creating loud unceasing noise and emitting toxic fumes," coming from the manufacturing plant of the latter's predecessor, Unson, Faustmann and Company, Inc.[4] During conciliation proceedings, petitioner's management undertook to relocate its operations within a month. The parties signed an Agreement to that effect.[5] However, petitioner failed to abide by the undertaking and continued to manufacture its products in its Brgy. Mariana workshop.

On January 16, 1998, Alicia P. Maceda (Maceda), another neighbor of petitioner, wrote a letter to the Brgy. Chairman to complain about the loud noise and offensive toxic fumes coming from petitioner's manufacturing plant.[6] She also filed a formal complaint with the Department of Environment and Natural Resources (DENR)-National Capital Region office. The complaint was endorsed by the DENR to one of the agencies under it, respondent Laguna Lake Development Authority (LLDA), which had territorial and functional jurisdiction over the matter.[7]

Subsequently, the Monitoring and Enforcement Section-Pollution Control Division of LLDA conducted an inspection of petitioner's premises. According to the LLDA, it was observed that the wastewater generated by petitioner's operations was drained directly to the sewer canal. However, since the wastewater was not yet for disposal, no sample could be collected during the inspection.

On November 19, 1998, a Notice of Violation and a Cease and Desist Order (CDO) were served on petitioner after it was found that it was operating without an LLDA Clearance and Permit, as required by Republic Act (R.A.) No. 4850.[8]

Meanwhile, Maceda's complaint was endorsed by the LLDA to the Office of the Mayor of Quezon City. After hearing and investigation, the Office of the Mayor issued a Closure Order against petitioner after finding that it

was operating without the requisite business permit, since it was running a jewelry manufacturing plant with an "Office Only" permit, and for violation of Zoning and Environmental Laws.[9]

Petitioner then filed a petition for mandamus before the Regional Trial Court (RTC), Branch 167, Pasig City. Contending that, as a cottage industry, its jewelry business is exempt from the requirement to secure a permit from the LLDA, petitioner asked the court to order the latter to issue a certificate of exemption in its favor. The RTC denied the petition, ruling that mandamus does not lie to compel the performance of a discretionary duty. Nonetheless, the RTC allowed petitioner to file an amended petition for certiorari and mandamus.[10]

In its amended petition, petitioner averred that its business was classified as a cottage industry. It argued that under R.A. No. 6977, the law prevailing at the time of its registration with the Securities and Exchange Commission (SEC) in December 1996, cottage industry was defined as one with assets worth P50,001.00 to P500,000.00.[11] Since, based on its Articles of Incorporation and Certified Public Accountant (CPA)'s Balance Sheet, its total assets when it was incorporated amounted only to P312,500.00, it qualified as a cottage industry.

Intervenors Maceda, Ma. Corazon G. Logarta (Logarta), and Rosario "Charito" Planas (Planas) filed a motion for intervention. Their Answer-in-Intervention was subsequently admitted by the RTC.

On April 1, 2002, the RTC promulgated a decision[12] denying the petition. In rejecting petitioner's claim that it was a cottage industry, the RTC said:

While it is true that plaintiff [petitioner]'s economic activity is carried on in a home, which incidentally gained the ire of the neighbors that culminated in a complaint against the plaintiff, it was manned not with the members of the family but by at least two hundred employees who were strangers and not known to the community. Moreso, being an accredited exporter recognized by the Bureau of Export Trade Promotion, Department of Trade and Industry, seemed a deviation from the connotation of "small scale."

Worthy to note is the observation of respondent-intervenors that to be considered a cottage industry, plaintiff should have been registered under the [National Cottage Industries Development Authority (NACIDA)], Section 12 of R.A. [No.] 3470 substantially provides; (sic) that the plaintiff corporation who desires to avail of the benefits and assistance of the law should have registered with the board. In the absence of any indication that affirm the status of the plaintiff corporation as a cottage industry, proof to the contrary may be reasonably accepted, for he who alleged the affirmative of the issue has the burden of proof and in this aspect plaintiff miserably failed.

On the contention that LLDA Resolution No. 41, series of 1997, exempt the plaintiff corporation from the requirements imposed by the LLDA, the interpretation given by [the] government agency itself should be given greater probative value. As a regulatory and quasi-judicial body, the LLDA is mandated to pass upon, approve or disapprove all plans, programs and project[s] proposed by local government offices/agencies, public corporations and private [corporations]. It is in the position to construe its own rules and regulation. By implication, plaintiff corporation arrogates unto itself the privilege bestowed upon a cottage industry. However, there is nothing in the Resolution that includes jewelry making as included in the term cottage industry.[13]

Thus, the RTC held that petitioner must subscribe to the rules and regulations of the LLDA governing clearance.[14]

Petitioner filed a motion for reconsideration of the RTC decision. The same was denied in an Order dated May 17, 2002. Hence, it filed a Notice of Appeal. Subsequently, it filed its appeal with the CA.

In a Decision[15] dated May 30, 2005, the CA dismissed the appeal. The CA brushed aside the issue of whether petitioner qualified as a cottage industry. It said that even if petitioner belonged to that category, it still needed to

prove that its business was exempted by law from the coverage of LLDA Resolution No. 41, Series of 1997.

Specifically, the CA cited Section 2(30) of said resolution, to wit:

Section 2. Exemptions. The following activities, projects, and installations are exempt from the above subject requirements:

x x x x

30. Cottage Industries, including

- stuffed toys manufacturing
- handicrafts, and
- rattan/furniture manufacturing.[16]

The CA held that, following the principle of ejusdem generis, the enumeration in the foregoing provision must be taken to include businesses of the same kind, which were, as averred by the LLDA, not as environmentally critical as those enumerated.[17] Thus, the CA declared that the LLDA did not contemplate the inclusion of the manufacture of jewelry in the exemptions.[18] Additionally, the CA held that the opinions and rulings of officials of the government called upon to execute or implement administrative laws command respect and weight.[19] The CA further held that since petitioner was claiming to be within the exemption, it had the duty to prove that the law intended to include it, or that it is within the contemplation of the law, to be exempted.[20]

Petitioner moved for the reconsideration of the Decision, but the CA denied the same in a Resolution dated January 31, 2006. Hence, petitioner filed this petition for review.

Petitioner argues that the CA committed the following errors:

- The appellate court erred when it failed or refused to make a definitive pronouncement as to whether petitioner qualifies as a cottage industry. This, even after the appellate court (on page 7 of the assailed Decision) scored the trial court for having "failed to consider the fact that the predicament of Sterling rests primarily on the determination of its status," i.e., whether petitioner is a cottage industry or not.
- The appellate court erred when it deliberately ignored the provisions of various statutes and regulations pertaining to cottage industries, which if the same had been taken into account and accorded due consideration, would have led the appellate court to correctly conclude that petitioner is indeed a cottage industry.
- The appellate court erred when it declared, after misapplying the rules of statutory construction, that No. 30 of Sec. 2 of LLDA Resolution No. 41, Series of 1997, does not serve to exempt petitioner from the clearance requirement.[21]

Petitioner also argues that Section 2(30) of LLDA Resolution No. 41, Series of 1997, contains no restriction limiting the exemptions to only certain kinds of cottage industries.[22] It contends that the word "including" connotes a sense of "containing" or "comprising," and not a sense of exclusivity or exclusion. The provision, petitioner points out, is devoid of any restrictive or limiting words; thus, the LLDA should avoid limiting the kinds or classes of cottage industries exempted from the clearance requirement.[23]

Next, petitioner avers that the CA erred when it refused to rule on whether it qualified as a cottage industry. It claims that the CA deliberately ignored the provisions in various statutes and regulations pertaining to cottage industries, which would have led to the conclusion that petitioner was such, and thus would fall within the exemption.[24] Petitioner argues that its total assets were worth only P312,500.00 during its incorporation, which, under R.A. No. 6977, would qualify it as a cottage industry. Further, petitioner argues that, even with the enactment of R.A. No. 8502, the Jewelry Industry Development Act of 1998, jewelry-making remains a cottage

industry.[25]

Finally, petitioner puts in question the factual basis for the issuance of the CDO by the LLDA.

By way of comment, intervenors Maceda, Logarta, and Planas allege that petitioner has been operating illegally, violating ordinances and laws, operating without the required permits and clearances, and continuing its operations despite LLDA's issuance of a CDO.[26] They further allege that petitioner's business is located in an area classified as "R-1" or low density residential zone under Quezon City Ordinance SP-918, Series of 2000, and preceding zoning ordinances. Despite having only an "Office Only" permit, petitioner deliberately uses the premises to manufacture jewelry.[27]

Intervenors also refute petitioner's claim that it is exempted from obtaining the required LLDA clearance because it is a cottage industry. First, intervenors allege that petitioner is not registered with the National Cottage Industries Development Authority (NACIDA). Next, intervenors point out that, as admitted by petitioner itself, it employs at least 229 employees who are strangers to the family, and its operations yield annual sales of at least P25 million.[28]

Intervenors also aver that, in R.A. No. 8502, there is no provision categorizing jewelry-making as a cottage industry. Going by the classification of jewelry-making companies in the Implementing Rules and Regulations of R.A. No. 8502[29] and petitioner's financial statements filed with the SEC, which state that petitioner had assets amounting to P2,454,459.01 in 1999 and P4,628,900.80 in 1998,[30] it cannot be characterized as a micro jewelry enterprise.

Next, intervenors insist that the LLDA has jurisdiction over petitioner. They argue that LLDA Resolution No. 41, Series of 1997, does not in any manner waive the LLDA jurisdiction even over those exempted in the list of activities, projects, and installations. Jurisdiction is provided for by law and cannot be diminished by an act of the agency concerned. In fact, there is no provision of waiver of jurisdiction contained in the said regulation. Exemption from securing prior clearance before implementing an activity does not carry with it a waiver of jurisdiction.[31]

Intevenors also point out that cottage industry, as contemplated under LLDA Resolution No. 41, Series of 1997, includes only the activities enumerated therein, namely, stuffed toys manufacturing, handicrafts, and rattan/furniture manufacturing. Further, intervenors aver that, under existing laws, the term cottage industry no longer exists and has been deleted. Jewelry-making is now classified as an independent and separate industry under R.A. No. 8502, apart from the general term cottage industry. Therefore, petitioner's activity cannot be included as among those exempted from obtaining a clearance from the LLDA because jewelry-making is not at all mentioned as an exception to the general rule, intervenors claim.[32]

On the other hand, the LLDA and its former General Manager Joaquin G. Mendoza (respondents) also filed their Comment. Respondents narrated that in 1998, petitioner was found to be operating its business without clearance and permit from the LLDA. Accordingly, a Notice of Violation was issued against petitioner. Subsequently, the LLDA conducted a public hearing, which was attended by petitioner, its company physician, and legal counsels. During the hearing, petitioner committed to relocate its facilities. Meanwhile, the same would remain padlocked to erase all doubts of its continued operation despite the Closure Order from the Quezon City Mayor's Office.[33] After the public hearing, the LLDA issued the assailed CDO against petitioner. Thereafter, proceedings before the RTC, then the CA, ensued, resulting in the now-assailed decision and resolution.

In their Comment, respondents posit that petitioner is not a cottage industry within the contemplation of the law. They argue that to qualify as such, the conditions in the laws must be complied with. Thus, while metalcraft

activities are considered as cottage industry, asset requirements and NACIDA registration requirements must also be complied with.[34]

Respondents contend that petitioner cannot be considered a cottage industry considering that it has assets way above the threshold fixed in the law. Respondents aver that what petitioner claims as its assets amounting to P312,500.00 refer only to the minimum paid-up capital stock required by law for purposes of incorporation and registration with the SEC. Respondents argue that petitioner would have other properties contributed and owned for purposes of starting the enterprise, such as furniture, fixtures, machinery, and equipment. Likewise, respondents point out that petitioner actually has a capitalization of P5 million, of which P1.25 million had been subscribed. The amount subscribed minus the paid-up capital is a subscription receivable from the incorporators and is an asset.[35]

Next, respondents argue that the CA did not err in ruling that petitioner is not exempted from securing a clearance from the LLDA. The respondents posit that, under LLDA Resolution No. 41, Series of 1997, the cottage industries exempted are those of the same nature and category as those enumerated therein, following the principle of *ejusdem generis*. [36] The activities enumerated, respondents claim, are those whose operations are basically dry and whose environmental impact is not so significant.[37] Likewise, respondents argue that, following the principle *expressio unius est exclusio alterius*, the express mention of the three activities excluded all other cottage industries. If the LLDA had intended to exempt all types of cottage industries, it would not have made an enumeration of those exempt activities, respondents posit.[38]

In its Reply, petitioner claims that intervenors are illegally suppressing petitioner's legitimate business because it is competing with the jewelry business of intervenor Logarta's cousin.[39] Petitioner claims that Logarta's cousin also operates his business within the same area as its facilities. It further claims that there is a total of 34 other businesses, including a manufacturer of garments, a wholesaler of cement, and a manufacturer of leather bags, operating in the same supposedly-residential zone where its office is located.[40] Petitioner also accuses intervenors Maceda and Planas of going to court with "unclean hands," considering that they also run businesses in the same area.[41]

Petitioner also denies that Mrs. Faustmann, then operating Unson, Faustmann and Company, Inc., reneged on a promise, made in 1992, to relocate the company's operations. Petitioner claims that Mrs. Faustmann was pressured into signing the Agreement before the Lupon, through threats and intimidation. As to the later complaint, petitioner claims that intervenors succeeded in pressing residents to sign the complaint, but those who signed were in fact from other streets, further away from its office.[42]

Petitioner also claims that there was no public hearing conducted before the Quezon City Mayor's Office issued and enforced the CDO.

Petitioner likewise insists that its business qualifies as a cottage industry.[43] It maintains that pertinent laws have identified jewelry-making as a cottage industry. The Cottage Industry Technology Center (CITC) designates jewelry-making as one of the industries it actively assists. Petitioner also maintains that its paid-up capital qualifies its business as a cottage industry.[44]

The petition is unmeritorious; hence, the same is denied.

The main issue to be resolved is whether petitioner is exempted from complying with the requirement to obtain a clearance from the LLDA to operate its business.

Petitioner insists that it is exempted from complying with the clearance requirements because it is a cottage industry. In order to resolve this issue, a review of the laws pertinent to cottage industries is in order.

Section 11 of R.A. No. 3470, approved on June 16, 1962, defined cottage industry as an "economic activity in a small scale which is carried on mainly in the homes or in other places for profit and which is mainly done with the help of the members of the family." Among the activities considered as a cottage industry is "metalcraft such as making of jewelries, knives, boloes (sic), scissors, razors, silverwares and brassworks (sic)."[45]

The same law required persons, corporations, partnerships, or associations that wished to avail of the benefits of the law to register with the NACIDA.[46]

In 1968, R.A. No. 5326 amended certain sections of R.A. No. 3470. In particular, Section 11 was amended to read:

SEC. 11. Definition. - The term `cottage industry' as used in this Act shall mean an economic activity in a small scale carried on mainly in the homes or in other places for profit and mainly done with the help of the members of the family with capitalization not exceeding fifteen thousand pesos. The term shall also include economic activities carried on by students of public and private schools, within school premises, as a cooperative effort, under supervision of a teacher or other person approved by and acting under the supervision and control of school authorities, either as part of or in addition to ordinary vocational training, provided all profits shall accrue to the students working therein. it shall include the following: x x x (5) metal craft such as making of jewelries, knives, boloes (sic), scissors, razors, silverwares and brassworks (sic); x x x All cottage industries shall be owned and operated by Filipino citizens, or by a corporation, partnership or cooperative, at least seventy-five per cent of the capital or investment of which is owned by Filipino citizens. All members of its Board of Directors shall be Filipino citizens.

The word capitalization as used in this section shall mean the total current assets and fixed assets, excluding the value of the land and building leased, rented and/or used at least six months of each year. For purpose of this Act, any and all branches, agencies, outlets or divisions of a licensed cottage industry shall be collated to determine the capitalization thereof.

R.A. No. 3470 was further amended on October 22, 1975, by Presidential Decree (P.D.) No. 817. The first sentence of Section 11 was amended, to read:

The term "cottage industry" as used in this Act shall mean an economic activity carried on in the homes or in other places for profit, with a capitalization of not exceeding P100,000 at the time of registration.

In 1981, then President Ferdinand Marcos issued P.D. No. 1788, the Cottage Industries Development Decree of 1981, amending and consolidating R.A. Nos. 3470 and 5326, P.D. No. 817, and other related Laws, Decrees, Executive Orders, Letters of Instructions, and Acts concerning the NACIDA. Section 10 of P.D. No. 1788 states:

Section 10. Cottage Industry - The term "cottage industry" shall mean a modest economic activity for profit using primarily indigenous raw materials in the production of various articles of the country. Provided, however, that all cottage industries shall be owned and operated by Filipino citizens, or by corporations, partnerships, or cooperatives at least seventy-five percent (75%) of the capital investment of which shall be owned by Filipino citizens. Provided, further, that the total assets of which shall not exceed one hundred thousand pesos (P100,000.00) at the time of registration with the NACIDA. Provided, finally that the maximum total assets allowable for cottage industries for purposes of registration may be modified and/or increased accordingly by the NACIDA Board subject to the approval of the President of the Republic of the Philippines.

For facility of implementation, coordination and statistical gathering, cottage industries shall be classified as follows:

x x x x

a) Metalcraft Industry - That sector using metals or its alloys as principal raw material component in producing articles such as brasswares, cutlery items, fabricated tools, implements and equipment and other items requiring a certain degree of craftsmanship in the making thereof including the making of jewelry items involving the use metals and/or its alloys in combination with semiprecious or artificial stones.

Executive Order (E.O.) No. 917, issued on October 15, 1983, amended the definition of cottage industry by increasing the capitalization requirement to a maximum of P250,000.00, which amount may be modified or increased accordingly, subject to the approval of the President.[47]

In 1986, the National Economic Development Authority (NEDA) redefined cottage, small and medium scale industries. Considered as cottage industries were enterprises, excluding agriculture, with total assets after financing of over P500,000.00 but less than P5 million.[48]

When Corazon Aquino became President, she issued E.O. No. 133, reorganizing the Department of Trade and Industry (DTI). Section 18 thereof provided that the NACIDA was reorganized into the CITC, and its functions, other than technology development and training, were transferred to the Bureau of Small and Medium Business Development and relevant line operating units of the DTI.

In 1990, Congress enacted R.A. No. 6977, the Magna Carta for Small Enterprises. The capitalization for a cottage enterprise was changed, viz.:

SEC. 3. Small and Medium Enterprises as Beneficiaries. - "Small and medium enterprise" shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant, and equipment are situated, must have value falling under the following categories:

micro : less than P50,000
cottage : P50,001 - P500,000
small : P500,001 - P5,000,000
medium: P5,000,001 - P20,000,000

In a generic sense, all enterprises with total assets of Five million pesos (P5,000,000) and below shall be called small enterprises.

R.A. No. 6977 was amended by R.A. No. 8289 in 1998. Amending Section 1 of R.A. No. 6977, the term cottage industry or cottage enterprise was completely eliminated:

SEC. 3. Small and Medium Enterprise as Beneficiaries. - "Small and Medium Enterprise" shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant, and equipment are situated, must have value falling under the following categories:

micro : less than P1,500,001
small : P1,500,001 - P15,000,000
medium: P15,000,001 - P60,000,00

The above definitions shall be subject to review and adjustment by the said Council motu proprio or upon recommendation of sectoral organization(s) taking into account inflation and other economic indicators. The Council may use as variables the number of employees, equity capital and asset size.

Finally, in 1998, Congress enacted R.A. No. 8502, the Jewelry Industry Development Act of 1998, a law to

support, promote, and encourage the growth and development of the predominantly small and medium scale jewelry industries. R.A. No. 8502 did not use the term cottage industry; instead, it characterized businesses engaged in jewelry-making as:

- a) micro jewelry enterprise less than P1,500,001
- b) small scale jewelry enterprise P1,500,001 - P15,000,000
- c) medium jewelry enterprise P15,000,001 - P60,000,000
- d) large scale jewelry enterprise more than P60,000,000.[49]

On the other hand, the LLDA was created by R.A. No. 4850 to carry out the development of the Laguna Lake region with due regard and adequate provisions for environmental management and control, preservation of the quality of human life and ecological systems, and prevention of undue ecological disturbances, deterioration, and pollution.[50]

The LLDA was granted the power to pass upon and approve or disapprove all plans, programs, and projects proposed by the local government offices/agencies within their regions, by public corporations, and by private persons or enterprises, where such plans, programs and/or projects are related to those of the Authority for the development of the region, as well as to issue the necessary clearance for the approved plans, programs and/or projects.[51]

Thus, in LLDA Resolution No. 41, Series of 1997, the LLDA specified the development activities, projects, and installations required to secure a clearance from the LLDA before these can be constructed, operated, maintained, expanded, modified, or implemented by any government office/agency or government corporation or private person or enterprise.[52] Section 2 of the LLDA Resolution then set out the activities exempted from complying with the clearance requirement, to wit:

Section 2. Exemptions. The following activities, projects, [or] installations are exempted from the above subject requirements:

x x x x

30. Cottage industries including

- stuffed toys manufacturing
- handicrafts and
- rattan/furniture manufacturing.

Contrary to the CA's pronouncement and to respondents' claim, the provision did not restrict the exemption to the three activities therein mentioned.

The word include means "to take in or comprise as a part of a whole." [53]

Thus, this Court has previously held that it necessarily conveys the very idea of non-exclusivity of the enumeration.[54] The principle of *expressio unius est exclusio alterius* does not apply where other circumstances indicate that the enumeration was not intended to be exclusive, or where the enumeration is by way of example only.[55] The maxim *expressio unius est exclusio alterius* does not apply when words are mentioned by way of example.[56] Said legal maxim should be applied only as a means of discovering legislative intent which is not otherwise manifest.[57]

In another case, the Court said:

[T]he word "involving," when understood in the sense of "including," as in including technical or financial assistance, necessarily implies that there are activities other than those that are being included. In other words,

if an agreement includes technical or financial assistance, there is [-] apart from such assistance - something else already in[,] and covered or may be covered by, the said agreement.[58]

As the regulation stands, therefore, all cottage industries including, but not limited to, those enumerated therein are exempted from securing prior clearance from the LLDA. Hence, the CA erred in ruling that only the three activities enumerated therein are exempted.

Next, the Court must determine if petitioner is in fact a cottage industry entitled to claim the exemption under LLDA Resolution No. 41, Series of 1997.

That jewelry-making is one of the activities considered as a cottage industry is undeniable. The laws bear this out. However, based on these same laws, the nature of the activity is only one of several factors to be considered in determining whether the same is a cottage industry.

In view of the emphasis in law after law on the capitalization or asset requirements, it is crystal clear that the same is a defining element in determining if an enterprise is a cottage industry.

Petitioner argues that its assets amount to only P312,500.00, representing its paid-up capital at the time of its SEC registration. The law then in force was R.A. No. 6977, which, to recapitulate, states:

SEC. 3. Small and Medium Enterprises as Beneficiaries. - "Small and medium enterprise" shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant, and equipment are situated, must have value falling under the following categories:

micro : less than P50,000

cottage: P50,001 - P500,000

small : P500,001 - P5,000,000

medium: P5,000,001 - P20,000,000

In a generic sense, all enterprises with total assets of Five million pesos (P5,000,000) and below shall be called small enterprises.

Accordingly, it should be considered as a cottage industry, petitioner insists.

However, petitioner's contention that its total assets amounts only to P312,500.00 is misleading.

The P312,500.00 represents the total amount of the capital stock already subscribed and paid up by the company's stockholders. It does not, however, represent the totality of its assets, even at the time of its registration. By the expert opinion of petitioner's own consultant, independent CPA Maximiano P. Sorongon, Jr., it does not mean that the paid-up capital is the only source of funds of the corporation for it to support its recurring operational requirements, as well as its increased financial requirements later on, as and when the business grows and expands.[59]

In other words, its paid-up capital is not the only asset of the company. Under R.A. No. 6977, the term total assets was understood to mean "inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant, and equipment are situated."

Assets consist of property of all kinds, real and personal, tangible and intangible, including, inter alia, for certain purposes, patents and causes of action which belong to any person, including a corporation and the estate of a decedent. It is the entire property of a person, association, corporation, or estate that is applicable or subject to the payment of his, her, or its debts.[60]

Consider these details as found by the Board of Investments and set forth in a Memorandum dated June 8, 1999 addressed to the undersecretary of the DENR, listing the basic information of petitioner as follows:

Name : Sterling Selections Corporation
Address : 55-A, 11th St., New Manila, Quezon City
Business Activity : Producer of gift items made of silver
Chairman & Managing Director: Asuncion Maria S. de Faustmann
SEC Registration : A 1996-10845 dated December 2, 1996
BOI Accreditation : 98-003 dated August 13, 1998 under R.A. 8502
BETP Accreditation : 98-0010 dated July 17, 1998 under R.A. 7844
No. of Employees : 189 (Direct Labor; Salaries & Allowances - P16,064,000)
Value of Export Sales : P19,732,692.00
Total Sales : P37,160,340.00 (based on 1998 ITR)[61]

The same figures are reflected in petitioner's own income statement.[62] Petitioner cannot insist on using merely its paid-up capital as basis to determine its assets. The law speaks of total assets. Petitioner's own evidence, i.e., balance sheets prepared by CPAs it commissioned itself, shows that it has assets other than its paid-up capital. According to the Consolidated Balance Sheet presented by petitioner, it had assets amounting to P4,628,900.80 by the end of 1998, and P1,746,328.17 by the end of 1997.[63] Obviously, these amounts are over the maximum prescribed by law for cottage industries.

Thus, the conclusion is that petitioner is not a cottage industry and, hence, is not exempted from the requirement to secure an LLDA clearance.

Further militating against petitioner's claim is the RTC's astute observation that being an accredited exporter recognized by the Bureau of Export Trade Promotion (BETP) of the DTI seemed like a deviation from the connotation of "small scale." [64]

The Court notes that, to be accredited by the BETP as an exporter, there are strict standards that the enterprise must meet. Under R.A. No. 7844, the Export Development Act of 1994, an exporter is any person, natural or juridical, licensed to do business in the Philippines, engaged directly or indirectly in the production, manufacture or trade of products or services, which earns at least fifty percent (50%) of its normal operating revenues from the sale of its products or services abroad for foreign currency.[65]

The same law provides for tax incentives to exporters, with the qualification that the incentives shall be granted only upon presentation of their BETP certification of the exporter's eligibility.[66] Qualified exporters applying for BETP certification must present a report of their export revenue/sales for the immediately preceding year.[67]

DTI Administrative Order No. 3, Series of 1995, provides for the mechanisms of accreditation for exporters vis-à-vis the tax incentives granted under R.A. No. 7844. Under Procedure for Accreditation of Exporters, the following schedule of application fees was set forth:

Export Value Per Year Application Fee
\$1M - 5M Max. P1,000.00
Above \$1M - 5M Max. 2,000.00
Above \$5M - 10M Max. 3,000.00
Above \$10M - 15M Max. 4,000.00
Above \$15M 5,000.00[68]

Consequently, an exporter must be able to generate and export enough products, with an export value of \$1

million per year, in order to be accredited by the BETP for tax incentives. Petitioner's accreditation shows that it complied with this requirement.

Based on the foregoing, it is clear that petitioner cannot be considered a cottage industry. Therefore, it is not exempted from complying with the clearance requirement of the LLDA.

It is a doctrine of long-standing that factual findings of administrative bodies on technical matters within their area of expertise should be accorded not only respect but even finality if they are supported by substantial evidence even if they are not overwhelming or preponderant.[69] Courts will not interfere in matters which are addressed to the sound discretion of the government agency entrusted with regulation of activities coming under the special and technical training and knowledge of such agency. The exercise of administrative discretion is a policy decision and a matter that is best discharged by the government agency concerned and not by the courts.[70]

The motives of the intervenors for filing the complaint are no longer relevant. Regardless of what these motives may have been, the fact remains that the LLDA found petitioner to have violated the pertinent environmental and regulatory laws.

The Court recognizes the right of petitioner to engage in business and to profit from its industry. However, the exercise of the right must conform to the laws and regulations laid down by the competent authorities.

WHEREFORE, the foregoing premises considered, the Petition is DENIED. The Decision dated May 30, 2005 and the Resolution dated January 31, 2006 of the Court of Appeals in CA-G.R. SP No. 79889 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Roberto A. Barrios and Vicente S.E. Veloso, concurring; rollo, pp. 40-51.

[2] Id. at 55-56.

[3] Id. at 12.

[4] Id. at 357.

[5] Id.

[6] Id. at 41-42.

[7] Id. at 42.

[8] Id. at 393.

[9] Id. at 42.

[10] Id. at 43.

[11] R.A. No. 6977, Sec. 3.

[12] Penned by Judge Lorifel Lacap-Pahimna; records, Vol. II, pp. 241-248.

[13] Id. at 246-247.

[14] Id. at 247.

[15] Supra note 1.

[16] Rollo, p. 48.

[17] Id. at 49.

[18] Id. at 48.

[19] Id. at 49.

[20] Id. at 50.

[21] Id. at 18-19.

[22] Id. at 19-20.

[23] Id. at 22.

[24] Id. at 24.

[25] Id. at 30.

[26] Id. at 145.

[27] Id. at 146.

[28] Id. at 152.

[29] Rule II - Definition of Terms

Section 1. x x x.

(z) Micro, Small, Medium and Large Scale Jewelry Enterprise - means an enterprise as defined under letter (e), whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situate, must have value falling under the following categories"

a) micro jewelry enterprise less than P1,500,001

b) small scale jewelry enterprise P1,500,001 - P15,000,000

c) medium jewelry enterprise P15,000,001 - P60,000,000

d) large scale jewelry enterprise more than P60,000,00.

[30] Rollo, p. 153.

[31] Id. at 155.

[32] Id. at 156.

[33] Id. at 181.

[34] Id. at 190.

[35] Id. at 193-194.

[36] Id. at 198.

- [37] Id. at 197.
- [38] Id.
- [39] Id. at 209.
- [40] Id. at 212.
- [41] Id. at 212-213.
- [42] Id. at 217.
- [43] Id. at 233.
- [44] Id. at 237.
- [45] R.A. No. 3470, Sec. 11(5).
- [46] Sec. 12.
- [47] Executive Order No. 917, Sec. 1.
- [48] NEDA Resolution No. 1, Series of 1986.
- [49] Supra note 29.
- [50] R.A. No. 4850, Sec. 1.
- [51] R.A. No. 4850, Sec. 4.
- [52] 5[th] paragraph.
- [53] Webster's All-In-One Dictionary and Thesaurus, 2008 ed. (Emphasis supplied.)
- [54] Binay v. Sandiganbayan, 374 Phil. 413, 440 (1999).
- [55] Coconut Oil Refiners Association, Inc. v. Hon. Torres, 503 Phil. 42, 56 (2005), citing Gomez v. Ventura and Board of Medical Examiners, 54 Phil. 726 (1930); id.
- [56] Coconut Oil Refiners Association, Inc. v. Hon. Torres, supra, at 56.
- [57] Id.
- [58] La Bugal-B'laan Tribal Association, Inc. v. Ramos, 486 Phil. 754, 796 (2004).
- [59] Rollo, p. 311.
- [60] Black's Law Dictionary, 5[th] Edition.
- [61] Records, Vol. I, p. 182.
- [62] Rollo, p. 332.
- [63] Id. at 330.
- [64] Records, Vol. II, p. 246.
- [65] R.A. No. 7844, Sec. 4(a).
- [66] R.A. No. 7844, Sec. 16.

[67] No. 3 PROCEDURE FOR ACCREDITATION OF EXPORTERS, DTI Administrative Order No. 3, Series of 1995.

[68] No. 3.2, DTI Administrative Order No. 3, Series of 1995.

[69] Republic of the Philippines v. Manila Electric Company, 440 Phil. 389, 399 (2002), citing Casa Filipina Realty Corporation v. Office of the President, 311 Phil. 170, 180 (1995).

[70] Yazaki Torres Manufacturing, Inc. v. Court of Appeals, G.R. No. 130584, June 27, 2006, 493 SCRA 86, 95.

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