

**LUZON BROKERAGE CO., INC., PLAINTIFF AND APPELLANT, VS.
JUAN POSADAS, JR., AS COLLECTOR OF INTERNAL REVENUE,
DEFENDANT AND APPELLEE.**

G.R. No. 27822. December 24, 1927

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The present appeal was taken by the plaintiff, the Luzon Brokerage Co., Inc., from the judgment of the Court of First Instance of Manila which affirmed the decision of the Collector of Internal Revenue on the internal-revenue tax imposed on certain playing cards, upholding the action taken by him under the provisions of Act No. 3246, and dismissed the complaint, with the costs.

In support of its appeal the appellant assigns the following alleged errors as committed by the trial court in its decision, to wit: (1) The lower court; erred in finding that the internal-revenue tax levied and collected in the present case was lawfully levied and collected upon the playing cards in question; (2) in finding that the date of the withdrawal of said playing cards from the customhouse determined the rate of internal-revenue tax to be paid thereon; (3) in failing to find that the internal-revenue tax rate applicable to the imported playing cards in question was the one in force on November 20, 1925, the date of the arrival of the importing vessel; (4) in dismissing the plaintiff's complaint; (5) in overruling plaintiff's motion for a new trial.

Section 1251 of the Revised Administrative Code of 1917 reads as follows:

"Sec. 1251. When duties accrue on imported merchandise.—Unless otherwise specially provided by law, duties shall accrue upon imported merchandise upon the arrival of the importing vessel within the jurisdictional waters of the Philippine Islands with intent to unlade."

And section 1248 of the same Code states the following:

"Sec. 1248. When importation by sea begins and ends.— Importation by sea begins when the importing vessel enters the jurisdictional waters of the Philippine Islands with intention to unlade therein, and is not completed until the duties due upon the merchandise have been paid or secured to be paid at a port of entry and the legal permit for withdrawal shall have been granted, or, in case said merchandise is free of duty, until it has legally left the jurisdiction of the customs."

The pertinent part of section 1478 of the same Code provides:

"Sec. 1478. Articles subject to specific tax.—Specific internal-revenue taxes apply to things manufactured or produced in the Philippine Islands for domestic sale or consumption and to things imported from the United States or foreign countries, but not to any thing produced or manufactured here which shall be removed for exportation and is actually exported without returning to the Islands, whether so exported in its original state or as an ingredient or part of any manufactured article or product.

"In case of importations the internal-revenue tax shall be in addition to the customs duties, if any."

* * * * *

And section 1480 of the same Code says:

"Sec. 1480. Payment of specific tax on imported articles.—Internal-revenue taxes on imported articles shall be paid by the owner or importer to the customs officers, conformably with regulations of the Bureau of Internal Revenue and before the release of such articles from the custom-house."

In the decision written by Mr. Justice Johnson in the case of *Asiatic Petroleum Company vs. Rafferty* (38 Phil., 475), the following is stated:

"* * * The theory of the law, with reference to the internal-revenue tax upon such merchandise, seems to be that the tax is not due and payable until it is about to be put into the commerce or trade of the country. The condition of the market at a particular time, or the situation in business generally, might cause the producer to withhold his merchandise and not allow it to be removed from the place of production for months, or even years; could he, under the above quoted provision of the law, be required to pay the internal-revenue taxes until he saw fit to place his product upon the market? While the law permits the producer of taxable merchandise to delay the payment of the internal-revenue tax until 'immediately before removal of the same from the place of production,' the duly authorized and promulgated regulation of the defendant himself permits the importer of taxable merchandise to deposit the same in a bonded warehouse and to delay the payment of internal-revenue tax until the same is about to be removed therefrom. * * *"

Consequently, merchandise imported to these Islands from foreign countries is subject to two taxes, namely: Customs and internal revenue. In accordance with section 1251 of the Administrative Code above quoted, duties shall accrue upon the arrival of the importing vessel within the jurisdictional waters of the Philippine Islands with intent to unlade; and, in accordance with section 1248 of the same Code, also quoted above, the importation of said merchandise is not completed until the duty to which it is subject has been paid, or, until it has legally left the jurisdiction of the customhouse in case it is exempt from the payment of duties. According to section 1480 of the same Code, above cited, internal-revenue taxes on imported articles must be satisfied before the release of such articles from the customhouse.

Now then; from what time is the importer or owner of the imported merchandise obliged to pay the internal-revenue tax? When the importation is completed by the payment of the customs duties? or, when the importer or owner withdraws it from the customhouse and places it on the market?

According to the doctrine above cited, imported merchandise is not subject to the payment of internal-revenue tax except just before it is withdrawn from the customhouse for the purpose of placing it on the market, being on the same footing with merchandise manufactured or produced in the country for its sale and consumption therein, which is not subject to the payment of internal-revenue tax, except just before its transfer from the place of production, in accordance with section 1479 of the Administrative Code, which reads as follows:

"Sec. 1479. Payment of specific tax on domestic products.—Specific taxes on domestic products shall be paid by the manufacturer, producer, owner, or person having possession of the same; and except as otherwise especially allow such taxes shall be paid immediately before removal from the place of production."

The time, then, that the imported merchandise becomes subject to the payment of the internal-revenue tax, depends upon the will of the importer or owner of said merchandise; because, while he has not decided to withdraw it from the customhouse and place it on the market, and has not requested permission to do so, he is not bound to pay said tax.

According to the stipulation of facts and the admissions made during the trial, the boxes of paying cards arrives in the port of Manila on November 20, 1925, at 8 o'clock in the morning, but were not declared for payment of the

internal-revenue tax until December 1st of the same year, neither was the amount of the estimated tax deposited, nor was permission requested to withdraw said boxes from the customhouse, except on December 2, 1925.

The law in force for the payment of internal-revenue taxes on imported merchandise at the time of the arrival of the playing cards in question, was section 7, Act No. 2835, amending section 1498 of the Administrative Code, and the payment of the internal-revenue tax on said imported merchandise was made, was Act No. 3246, which became effective December 1, 1925.

If the importer or owner of the imported merchandise may select the time in which he should pay the amount of the internal-revenue tax on the same from the time it arrives in the port of Manila until it is withdrawn from the customhouse, and the herein plaintiff-appellant not having taken advantage of the favorable provisions of section 1498 of the Revised Administrative Code as amended by section 7 of Act No. 2835, and not having paid the internal-revenue tax while said section was in force, but only after the new law, Act No. 3246, went into effect, it cannot now make claim for the recovery of the internal-revenue tax paid under the law in force at the time payment was made.

Briefly, then, the time for the payment of the internal-revenue tax in merchandise, from the date of arrival in port until just before it is withdrawn from the customhouse, depending upon the will of the importer or owner, the law in force at the time the payment is made must prevail; because, voluntary human acts are governed by the laws in force at the time they are done, unless there is a legal provision to the contrary.

In view of the foregoing, we find no error in the judgment appealed from and the same is affirmed in all its parts, with the costs against the appellant. So ordered.

Avanceña, C.J., Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Villa-Real, JJ, concur.

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