

SHELL PHILIPPINES, INC., PLAINTIFF-APPELLEE, VS. CENTRAL BANK OF THE PHILIPPINES, DEFENDANT-APPELLANT.

G.R. No. 51353. June 27, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case comes to us on a Court of Appeals resolution certifying the controversy as one which involves a pure question of law. The resolution states the factual background of the case.

"On May 1, 1970, Congress approved the Act imposing a stabilization tax on consignments abroad (RA 6125). Section 1 of the statute, in part, provided as follows:

"Section 1. There shall be imposed, assessed and collected a stabilization tax on the gross F.O.B. peso proceeds, based on the rate of exchange prevailing at the time of receipt of such proceeds, whether partial or total, of any exportation of the following schedule:

'a. In the case of logs, copra, centrifugal sugar, and copper ore and concentrates;

Ten per centum of the F.O.B. peso proceeds of exports received on or after the date of effectivity of this Act to June thirty, nineteen hundred seventy-one;

Eight per centum of the F.O.B. peso proceeds of exports received from July first, nineteen hundred seventy-one to June thirty, nineteen hundred seventy-two."

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"Any export products the aggregate annual F.O.B. value of which shall exceed five million United States dollars in any one calendar year during the effectivity of this Act shall likewise be subject to the rates of tax in force during the fiscal years following its reaching the said aggregate value."

"In August, 1970, the Central Bank, through its Circular No. 309 provided that:

"The stabilization tax shall begin to apply on January 1st following the calendar year during which such export products shall have reached the aggregate F.O.B. value of more than US\$5 million, and the applicable tax rates shall be the rates prescribed in Schedule (b) of Section 1 of Republic Act No. 6125 for the fiscal year following the reaching of the said aggregate value."

"During 1971, appellee Shell, Philippines, Inc. exported seria residues, a by-product of petroleum refining, to an extent reaching \$5 million. On January 7, 1972, the Monetary Board issued its Resolution No. 47 subjecting 'petroleum pitch and other petroleum residues' to the stabilization tax effective January 1, 1972. Under the

Central Bank Circular No. 309, implemented by Resolution No. 47, appellee had to pay the stabilization tax beginning January 1, 1972, which it did under protest.

"On September 14, 1972, appellee filed suit against the Central Bank before the Court of First Instance of Manila, praying that Monetary Board Resolution No. 47 be declared null and void, and that Central Bank be ordered to refund the stabilization tax it paid during the first semester of 1972. Its position was that, pursuant to the provisions of RA 6125, it had to pay the stabilization tax only from July 1, 1972.

"The lower court sustained appellee, and it declared Monetary Board Resolution No. 47 as void and it ordered refund of the stabilization tax paid by appellee during the period January 1 to June 30, 1972. Central Bank has appealed from the judgment." (Rollo, pp. 47-49)

The trial court opined:

"Note that the law mentions both calendar year and fiscal year. Calendar year refers to one year starting from January to December. Fiscal year, as it is usually and commonly used, refers to the period covered between July 1 of a year to June 30 of the following year. In using these two terms, it is the considered opinion of this Court that they should be taken in the meaning where they are commonly and usually understood. So that when an export product reaches an aggregate F.O.B. value of more than \$5,000,000.00 in a calendar year it becomes subject to the rates of tax in force during the fiscal year following its reaching the said aggregate value.

"The statute is clear and free from ambiguity so that all interpretation even becomes unnecessary x x x." (Brief for Defendant-Appellant, pp. 34-35)

The Central Bank appeals from the above cited decision alleging that the trial court erred in regarding the deliberations of the Senate on the stabilization tax in favor of Shell Philippines,

Inc. and in failing to consider the authority granted to the appellant to promulgate rules and regulations in the implementation of the stabilization tax law.

It should be mentioned, however, that on July 1, 1973, Presidential Decree No. 230 took effect. This law entitled "Amending the Tariff and Customs Code, creating Title III in Book I - Export Tariff," expressly repealed Section 1 of Republic Act No. 6125 and transferred the assessment and collection of the export duty from the Central Bank to the Bureau of Customs by ordering the Commissioner of Customs to promulgate rules and regulations necessary for the implementation of the decree, subject to the approval of the Secretary of Finance (Section 2 of the Decree).

Notwithstanding this fact, the issue raised must be resolved on the merits as an affirmative relief was granted to the appellee.

First, the petitioner's allegation that the trial court gave undue weight to the deliberations of the Senate on the stabilization tax law is not supported by either the records or the decision itself. It is clear in the decision that the trial court found no ambiguity in the provision of law governing the dispute and accordingly applied it in its ordinary sense. The cited Senate deliberations merely corroborated the fact that the tax commences on the following fiscal year after the aggregate value is reached. However, even if the lower court was influenced by the Senate deliberations, we see nothing wrong in courts' examining and following the intent of the legislature when an act of Congress has to be interpreted.

Second, while it is true that under the same law the Central Bank was given the authority to promulgate rules and regulations to implement the statutory provision in question, we reiterate the principle that this authority is limited only to carrying into effect what the law being implemented provides.

In *People v. Maceren* (79 SCRA 450, 458 and 460), this Court ruled that:

"Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself cannot be extended. (*U.S. v. Tupasi Molina*, *supra*). An administrative agency cannot amend an act of Congress (*Santos v. Estenso*, 109 Phil. 419, 422; *Teoxon v. Members of the Board of Administrators*, L-25619, June 30, 1970, 33 SCRA 585; *Manuel v. General Auditing Office*, L-28952, December 29, 1971, 42 SCRA 660; *Deluao v. Casteel*, L-21906, August 29, 1969, 29 SCRA 350).

"The rule-making power must be confined to details for regulating the mode or proceeding to carry into effect the law as it has been enacted. The power cannot be extended to amending or expanding the statutory requirements or to embrace matters not covered by the statute. Rules that subvert the statute cannot be sanctioned. (*University of Santo Tomas v. Board of Tax Appeals*, 93 Phil. 376, 382, citing 12 C.J. 845-46. As to invalid regulations, see *Collector of Internal Revenue v. Villaflor*, 69 Phil. 319; *Wise & Co. v. Meer*, 78 Phil. 655, 676; *Del Mar v. Phil. Veterans Administration*, L- 27299, June 27, 1973, 51 SCRA 340, 349).

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"x x x The rule or regulation should be within the scope of the statutory authority granted by the legislature to the administrative agency. (*Davis*, *Administrative Law*, p. 194, 197, cited in *Victorias Milling Co., Inc. v. Social Security Commission*, 114 Phil. 555, 558).

"In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law (*People v. Lim*, 108 Phil. 1091)."

Considering the foregoing, we rule that the trial court was correct in declaring that "Monetary Board Resolution No. 47 is void insofar as it imposes the tax mentioned in Republic Act No. 6125 on the export seria residue of (plaintiff) the aggregate annual F.O.B., value of which reached five million United States dollars in 1971 effective on January 1, 1972." The said resolution runs counter to the provisions of R.A. 6125 which provides that "(A)ny export product the aggregate annual F.O.B. value of which shall exceed five million United States dollars in any one calendar year during the effectivity of this Act shall likewise be subject to the rates of tax in force during the fiscal year following its reaching the said aggregate value."

We note that under the same provision of law the tax accrues when the aggregate annual F.O.B. value of the export product has exceeded five million United States dollars during any calendar year. The imposition of the tax is only deferred until the "fiscal year following its reaching the said aggregate value." It is only then that the rates in force are ascertained.

In this case, there is no question that in 1971, the appellee exported seria residue with an F.O.B. value of more than five million US dollars. The appellee's objection lies in the collection of the tax thereon as of January 1972 rather than in July 1972.

It is, therefore, undeniable that the respondent was liable to pay the tax and that the Central Bank merely collected the said tax prematurely. There is likewise no controversy over the rate of tax in force when payment became due. Thus, the tax refund granted by the trial court was not proper because the tax paid was in fact, and in law due to

the government at the correct time.

We decline to grant to the respondent an amount equivalent to the interest on the prematurely collected tax because of the well entrenched rule that in the absence of a statutory provision clearly or expressly directing or authorizing payment of interest on the amount to be refunded to the taxpayer, the Government cannot be required to pay interest. Likewise, it is the rule that interest may be awarded only when the collection of tax sought to be refunded was attended with arbitrariness (*Atlas Fertilizer Corp. v. Commission on Internal Revenue*, 100 SCRA 556). There is no indication of arbitrariness in the questioned act of the appellant.

WHEREFORE, in view of the foregoing, the assailed decision is hereby **AFFIRMED** but **MODIFIED** to the effect that the tax refund granted by the trial court is ordered retained by or reverted to, as the case may be, the Central Bank.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.

Fernan, J. (Chairman), took no part formerly counsel for Shell Phil., Inc. (Cebu office)

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