

COMMISSIONER OF CUSTOMS AND COMMISSIONER OF INTERNAL REVENUE, PETITIONERS, VS. THE HONORABLE COURT OF TAX APPEALS AND PLANTERS PRODUCTS, INC., RESPONDENTS.

G.R. No. 82618. March 16, 1989

Ponente: GRIÑO–AQUINO, J.

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GRIÑO–AQUINO, J.:

Challenged in this petition for review on certiorari is the decision dated February 3, 1988 of the Court of Tax Appeals which ordered the Commissioner of Customs to refund to Planters Products, Inc., the sum of P285,783 without interest (p. 35, Rollo).

Planters Products, Inc. (hereinafter referred to as "Planters" for brevity) is engaged in the manufacture and sale of fertilizers and agricultural chemicals. In 1979, it imported 162 steel drums of Dursban Xylene mixture and 10 fibre drums of Plictran 50 W, hereinafter referred to as "imported articles" (p. 17, Rollo). On April 17, 1979, the Customs Collector for the Port of Manila made a final assessment of customs duties and advance sales tax amounting to P920,549 on the said importations pursuant to the classification under Tariff Heading No. 38.11 classifying Dursban Xylene Mixture as "miscellaneous chemical products specifically an insecticidal preparation for sale by retail" with an ad valorem tax of twenty percent (20%).

On April 23, 1979, Planters paid in full the customs duties and ADVANCE SALES TAX amounting to P920,549.

However, unknown to the petitioner, five days earlier, or on April 18, 1979, the Tariff Commission had issued a ruling classifying Dursban Xylene Mixture Insecticidal Concentrate as organo-inorganic compounds subject to duty of only 10% ad valorem. The Commissioner's ruling provides:

"Subject article (Dursban Xylene Mixture) is classifiable under heading Nos. 29.31 which provide for organo-sulphur compounds and 29.34 which provides for other organo-inorganic compounds; that goods which could be included in two or more of the headings of this chapter are to be classified in the latest of those headings.

"In view of the foregoing, subject article is classified in heading 29.34 of Presidential Decree No. 1464 otherwise known as the Tariff and Customs Code of 1978 with a rate of duty of 10% ad valorem." (p. 33, Rollo.)

Upon discovery of the new ruling which would reduce its tax liability for the importation of Dursban Xylene Mixture to only P634,766, instead of P920,549, Planters filed a letter-protest on April 30, 1979 addressed to the Collector of Customs asking for a refund of its excess payment in the sum of P285,783 of which P254,029 represent excess customs duties and P31,754 the overpayment of advance sales tax. The Customs Collector did not answer its letter. Planters reiterated its request for a refund on July 7, 1979. Still, the Collector made no reply.

On August 12, 1980, Planters filed with the Commissioner of Internal Revenue a claim for refund of the overpaid advance sales tax on its importation. Like the Collector of Customs, the Commissioner of Internal Revenue did

not act on the claim.

On April 21, 1981, or exactly two days before the expiration of the 2-year prescriptive period for filing a suit to recover erroneously collected taxes under Section 230 of the National Internal Revenue Code, as amended by Executive Order 273 (formerly Section 292), Planters filed a petition for review in the Court of Tax Appeals which resolved the issue in its favor. Not unexpectedly, both the Customs Collector and the Revenue Commissioner elevated the case to this Court for review.

The crucial issue here is whether or not respondent's importation consisted of "organic compounds" classified under Section 29.34 of the Tariff and Customs Code with an ad valorem rate of 10%, or "insecticidal preparations for retail" under Section No. 38.11 subject to 20% ad valorem tax.

The Court of Tax Appeals held that Dursban Xylene Mixture is an organic compound classifiable under Tariff Heading No. 29.34. The Court noted that in August, 1981, Planters' importation of the same commodity was subjected to a 10% rate of duty only, upon a classification made by the Chief of the Customs Laboratory, that Dursban Xylene Insecticide Mixture is considered to be a "technical grade," not an insecticide preparation ready for use (Exh. H-1, p. 4 Planter's Comment, p. 39, Rollo).

The failure of the importer, at the time of classifying the imported commodity, to cite or invoke another classification, did not preclude a re-classification of the same if the original classification is found to be erroneous. No one is estopped or bound by an error.

There is no merit in the Commissioner's argument that the Court of Tax Appeals had no jurisdiction to review the assessment made by the collector of customs because its jurisdiction in customs cases is limited to a review of decisions of the commissioner upon appeal by aggrieved parties (*Rufino Lopez vs. Collector of Customs*, G.R. No. L-9274, Feb. 1, 1957, 100 Phil. 850).

The fact is that neither the Collector nor Commissioner of Customs had rendered a decision, order or ruling on Planter's claim which the Court of Tax Appeals may review. Planters' petition for review was filed under Section 230 of the National Internal Revenue Code as amended by EO 273, which provides:

"Section 230. Recovery of Tax Erroneously or Illegally Collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, x x x until a claim for refund or credit has been duly filed with the Commissioner x x x.

"In any case, no such suit or proceeding shall begun after the expiration of two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment x x x." (Emphasis Supplied).

If the taxpayer, Planters, had waited longer for the decision of the collector or commissioner on its claim before filing suit in the Tax Court, its right of action would have prescribed. It correctly interpreted the tax officials' silence as a denial of its claim, in accordance with the Tax Court's own ruling in *Paracale-Gamaus vs. Blaquera* (CTA No. 211, Resolution of August 22, 1956) which is quoted hereunder:

"The taxpayer having filed his claim and the Collector of Internal Revenue having had ample time to study it, the claimant may, indeed should, within the statutory period of two years proceed with his suit without waiting for the Collector's decision. In other words, in fairness to the taxpayer so as not to deprive him of his day in court and the prompt adjudication of his case, he is left by necessity to presume and conclude before the expiration of the two-year prescriptive period, that his claim for refund has been denied by the Collector of internal Revenue if no action was taken thereon by the latter during the said period. The taxpayer need not wait indefinitely for a decision or ruling which may or may not be forthcoming and which he has no legal right to

expect.

"It might be argued that without the reply of the Collector of Internal Revenue denying the taxpayer's claim for refund, there would be actually no decision, order or ruling that this Court (Court of Tax Appeals) may pass upon in review under Sections 7 and 11 of Republic Act 1125. Indeed, that would be the case if we were to interpret the two last cited provisions of Republic Act 1125 in their strict literal sense. However, we realize that by following such an unreasonable interpretation, the taxpayer would be left at the mercy of the Collector of Internal Revenue, without any positive and expedient relief from the courts.

"It is disheartening enough to a taxpayer to keep him waiting for an indefinite period of time for a ruling or decision of the Collector of Internal Revenue on his claim for refund. It would make matters more exasperating for the taxpayer if we were to close the doors of the courts of justice for such a relief until after the Collector of Internal Revenue, would have, at his personal convenience, given his go signal. In effect, that could be the ultimate result, if we were to interpret sections 7 and 11 of the Republic Act 1125 strictly and literally by requiring the taxpayer in all instances to produce in black and white the ruling, decision or order of the Collector of Internal Revenue denying his claim for refund before assuming jurisdiction over his petition for review filed with this Court."

The Tax Court's classification of the private respondent's importation as organo-inorganic compounds subject to 10% customs duties and ad valorem sales tax, may not be disturbed by Us without departing from the oft-pronounced policy and practice of this Court to respect the conclusions of administrative agencies, such as the Court of Tax Appeals which, by the nature of its functions, is dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject, unless there had been an abuse, or improvident exercise, of its authority (Reyes vs. Commissioner of Internal Revenue, 24 SCRA 199 [1968]), which We do not find to be present in this case.

WHEREFORE, the decision of the Court of Tax Appeals is affirmed with modification. The Commissioner of Customs and the Commissioner of Internal Revenue are ordered, respectively, to refund to the private respondent Planters Products, Inc. the sum of P254,029 as excess payment of customs duties and P31,754 as advance sales tax overpaid by the said taxpayer. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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