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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

VERA-PEREZ CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 1162

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

x - - - - - - - - - - - - - - - x

November 6/63

D E C I S I O N

This involves a claim of petitioner for a tax credit in the amount of ₱1,578.00 as alleged erroneous payment of compensating tax on its importation of unexposed cinematographic films.

Petitioner Vera-Perez Corporation, a producer of Filipino motion pictures, imported from the U. S. A. unexposed cinematographic films with a total C.I.F. value of $4,333.40, for which it paid the amount of ₱1,578.00 as compensating tax under Official Receipt No. 36137 dated January 13, 1960.

Relying on the exempting provision of Section 190 of the National Internal Revenue Code, petitioner filed with the respondent a claim for tax credit in the amount of ₱1,578.00 on April 12, 1961. Before the claim for tax credit could be acted upon, petitioner, on January 12, 1962, filed with this Court the instant petition for review. Subsequently, the said claim was denied by respondent.

The lone issue to be determined in this case is whether or not the unexposed cinematographic films imported by petitioner are exempt from compensating tax.

Petitioner bases its claim for exemption on the spirit and intention of Congress in passing Section 190 of the Tax Code, as amended, and BIR Field Circular No. 149 dated September 29, 1960. It is argued that altho the imported films in question were not used in the manufacture or preparation of articles subject to specific tax, they were used as replacement of films borrowed from or advanced by the film bank constituted by film producers and operated by Kodak Philippines, Ltd.

On the other hand, respondent maintains that the films in question were not covered by the exempting provision on the ground that the same were not used by petitioner itself in the manufacture of cinematographic films.

Section 190 of the Tax Code provides:

> "xxx That the tax imposed by this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax, xxx."

It is admitted that the unexposed cinematographic films in question were not used by the importer, petitioner herein, in the manufacture or preparation of cinematographic films subject to specific tax, but were used to replace films borrowed by it from an alleged "film bank." Petitioner, therefore, cannot avail itself of the aforementioned exempting provision. To our mind, the words of the statute are so clear as to preclude an inquiry into the spirit of the law.

IN VIEW OF THE FOREGOING, petitioner's appeal is hereby dismissed, with costs against it.

SO ORDERED.

Manila, November 6, 1962.

(Sgd.) MARIANO NABLE
Presiding Judge

I concur:

(Sgd.) ROMAN M. UMALI
Associate Judge