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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PHILIPPINE AMERICAN DRUG CO.,
Petitioner,

Sept. 23, 1957

- versus -

C.T.A.
CASE NO. 265

SILVERIO BLAQUERA, in his capacity
as Collector of Internal Revenue,
Respondent.

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D E C I S I O N

This is an appeal from the decision of respondent Collector of Internal Revenue holding petitioner liable for the payment of the sum of ₱10,243.13 as deficiency advance sales tax on the latter's importations from February 14, 1951 to December 31, 1954.

The parties submitted a "Stipulation of Facts" the pertinent portions of which read as follows:

> "2. That during the period from February 14, 1951 to December 31, 1954, petitioner did not for purposes of computing the advance sales tax on its importations include as part of the landed cost the difference (₱0.015) between the amount actually paid by it to the bank on said importations computed at the rate of ₱2.015 for every U.S. dollar and the value of the imported goods computed at the legal rate of ₱2.00 for every U.S. dollar;
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> "3. That the difference of ₱0.015 represents the premium on the dollar charged by the bank and paid by the petitioner in the purchase of foreign exchange;
>
> "4. That on November 4, 1955, respondent demanded from petitioner (Demand #13756) the payment of the sum of ₱10,243.13

as deficiency advance sales tax, copy of which appears on pages 21 and 22, BIR records. Said letter of demand was received by petitioner on November 12, 1955;

"5. That respondent issued a ruling dated June 21, 1954, the pertinent portion of which reads as follows:

'Where the importer stated in the importer's declaration for advance payment of sales tax the invoice value in U.S. dollars converted at the flat exchange rate of ₱2.00, and sixty (60) days after, when he paid the trust receipt at the bank which handled the dollar remittance the exchange rate was ₱2.015, a deficiency sales tax will be collected on the difference between the exchange rate actually paid and the flat exchange rate of ₱2.00 for every U.S. dollar appearing in the importer's declaration. Such difference on which deficiency sales tax will be imposed clearly forms part of the landed cost. Moreover, since the excess over the flat exchange rate of ₱2.00 for every American dollar ordinarily remains stationary, and therefore, fairly determinable at the time of the preparation of the importer's declaration, the conversion of the import invoice value from dollar to peso should have been made on the basis of the prevailing rate of exchange.'

"6. That in a letter dated November 15, 1955 (Annex 'B' Petition for Review) petitioner requested a reconsideration of respondent's letter of demand dated November 4, 1955. Date of receipt of respondent, i.e. November 18, 1955 appears on page 34 of the BIR records;

"7. In another letter dated February 27, 1956, respondent denied petitioner's request for reconsideration and reiterated his demand for the payment of the sum of ₱10,243.13 as deficiency advance sales tax, copy of which appears on pages 35 and 36 of the BIR records. Said letter was received by petitioner on April 2, 1956. (Par. 6, Petition for Review);

"8. That petition for review in this case was filed by petitioner on April 21,1956; x x x x."

The parties agree that the only question involved in this case is -

> "x x x whether or not the difference of ₱0.015, representing the premium on the dollar charged by the bank to the importer-petitioner and paid by it in the purchase of foreign exchange (U.S. dollar), should form part of the landed cost of the imported articles for purposes of computing the advance sales tax, assuming that respondent's ruling dated June 21, 1954 as quoted in the 5th paragraph hereof, was issued in accordance with law, and reflects the correct interpretation thereof." (Par. 9, Stipulation of Facts.)

Section 183 (B) of the National Internal Revenue Code, as amended by Republic Act No. 594, which took effect on February 16, 1951, imposed a sales tax on imported goods "based on the import invoice value thereof . . . including freight, postage, insurance, commission, customs duty, and all similar charges . . . ." It is contended on behalf of petitioner that the sum of ₱0.015 paid by it for every U.S. dollar remitted abroad in payment for goods imported by it is not part of the taxable value of such goods as said amount does not fall under the category of "similar charges". This question has been squarely decided in Genato Commercial Corporation v. Collector of Internal Revenue, C.T.A. No. 218, Oct. 5, 1956, 53 O.G. 3163, wherein it was held:

> "The term 'similar charges' follows the enumeration of the particular words 'freight, postage, insurance, commission, customs duty.' Interpreting and applying the meaning of the particular words above-enumerated, not in their individual intendment, but taken in relation to the whole provision, and bearing in mind the object

and purpose of Congress in enacting said provision, it is apparent that they all refer to specific 'charges' which an importer has to pay to complete his importation. In other words, they belong to that class of charges or expenses necessarily incurred by the importer to secure the release of goods imported from customs custody. Under the rule of ejusdem generis, therefore, any 'charge' properly belonging to that particular class of 'necessary expenses incurred by the importer in order to complete his importation' falls within the purview of the term 'all similar charges' as contemplated by Section 183(B) of the Revenue Code, as amended by Republic Act No. 594.

"In the case at bar, there is no dispute that the difference of ₱0.015 is a premium or 'charge' paid by the importer to the bank for the purchase of foreign exchange with which to pay his importations. x x x."

Even granting that the sum of ₱0.015 does not fall under the category of "similar charges", as contended by petitioner, it is part of the import invoice value of the imported goods for the reason that what the importer actually paid to the bank for each U.S. dollar remitted abroad in payment for each importation was ₱2.015 and not ₱2.00.

"Furthermore, granting that the sum of ₱.015 charged by the banks for every U.S. dollar remitted abroad does not, under the rule of ejusdem generis, come under the category of 'similar charges', the evidence of record has clearly established the fact that when petitioner herein paid the invoice value of the goods imported by it, the amount it actually paid for each U.S. dollar was ₱2.015 and not ₱2.00. Therefore, the import invoice value of imported goods which must be considered in determining the sales tax under Section 183 (B) is not ₱2.00 for every U.S. dollar but ₱2.015." (Genato Commercial Corp. v. Collector of Int. Revenue, supra.)

Petitioner has raised the issue of the validity of a ruling of respondent dated June 21, 1954 wherein it was held that the sum of ₱0.015 paid by an importer to a bank for each U.S. dollar remitted abroad in payment for imported goods is part of the taxable value of such goods under Section 183 (B) of the Revenue Code. It is contended that a ruling which affects public interest, in order to be valid, must bear the approval of the Secretary of Finance under Section 79 of the Administrative Code and Section 338 of the Revenue Code. The said ruling of June 21, 1954 was issued by respondent in answer to a query of a certain certified public accountant.

The validity or invalidity of the ruling of respondent of June 21, 1954 is not material to this case. What is material here is the correctness of respondent's decision of November 4, 1955, which is the decision appealed from. (See par. 3, Petition for Review.) Even if the ruling of June 21, 1954 is invalid for lack of approval of the Secretary of Finance, upon which we do not here express an opinion, it would not affect the correctness of the decision of November 4, 1955, which we have found to be in accordance with Section 183 (B) of the Revenue Code.

Finding no error in the decision appealed from, the same is hereby affirmed with costs against petitioner.

SO ORDERED.

Manila, Philippines, September 23, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge