REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ACOJE MINING CO., INC.,
Petitioner,

-versus-

C.T.A. CASE No. 1835

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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

March 30/70

DECISION

Petitioner filed a judicial action for refund of *ad valorem* taxes amounting to ₱84,472.27 which were paid on minerals extracted and shipped from petitioner's Sierra Madre Mines, Palanan, Isabela, from February 25, 1965 to November 29, 1965, claiming that it is exempt from said taxes under Section 79-A of Commonwealth Act No. 137, otherwise known as the Mining Act, as amended by Republic Act No. 3823.

Petitioner, a corporation organized and existing under the laws of the Philippines, is engaged in mining and the mines under its lease are located in Sta. Cruz, Zambales and Palanan, Isabela. (Exhs. H & H-1, p. 89, CTA rec.) Its mine located in Isabela, known as the Sierra Madre Mines, (p. 17, t.s.n., Oct. 22, 1968), is covered by a mining lease with the Government (Exhs. 2 & C, pp. 92-95, CTA rec.). On July 21, 1964, petitioner filed with the Bureau of Mines an application for tax exemption of its Sierra Madre Mines under Section 79-A of Commonwealth Act No. 137, as inserted therein by Republic Act No. 3823. (p. 18, t.s.n., ibid.; see p. 75 BIR rec.)

During the period from February 25, 1965 to November 29, 1965, petitioner extracted, removed and shipped manganese ore, copper ore, manganeferrous ore and manganese fines from its mineral land for which it paid ad valorem taxes amounting to ₱84,472.27. (Exhs. J; G, G-1 to G-22; F, F-1 to F-25; K, pp. 8, 9-31, 32-58, & 60, CTA rec., respectively.)

On November 23, 1965, upon the recommendation of the Director of Mines, the Secretary of Agriculture and Natural Resources approved petitioner's application for tax exemption of its Sierra Madre Mines and issued in favor of the latter a Certificate of Qualification for Tax Exemption for the period from December 7, 1964 to December 6, 1969. (Exhs. A & A-1, pp. 5 & 4, CTA rec., respectively.)

On the basis of the said tax exemption certificate, petitioner in a letter dated July 21, 1966, requested respondent to refund the ad valorem taxes paid by it amounting to ₱84,472.27. (Exh. D, p. 7, CTA rec.)

Without waiting for the decision of the respondent Commissioner of Internal Revenue on its claim for refund, petitioner filed its petition for review with this Court on March 9, 1967 in order to beat the statutory deadline.

The decisive and pivotal issue presented to this Court for resolution is whether or not petitioner is exempt from the ad valorem taxes under the provisions of Section 79-A of Commonwealth Act No. 137, otherwise known as the Mining Act, as inserted by Republic Act No. 3823. In the affirmative case, the ad valorem taxes amounting to ₱84,472.27 paid by petitioner on the minerals extracted by it from the Sierra Madre Mines becomes refundable.

The opposing parties are in agreement on the provisions of law involved, the administrative rules and regulations promulgated thereunder, and the computation of the ad valorem taxes paid by, or amount refundable to, petitioner as the case may be.

The resolution of the question at issue hinges principally on the interpretation to be given to the phrase "new mines" as embodied in Section 79-A of Commonwealth Act No. 137, as inserted by Republic Act No. 3823, which reads as follows:

> Section 79-A. However, new mines, and old mines which resume operation, when certified to as such by the Secretary of Agriculture and Natural Resources upon the recommendation of the Director of Mines, shall be granted five years complete tax exemptions except income tax, from the time of its actual bona fide orders for equipment for commercial production. (Underscoring supplied)

The controversial phrase "new mines" is amplified in Mines Administrative Order No. V-25, Series of 1963, and Mines Administrative Order No. V-31, Series of 1970, promulgated by the Secretary of Agriculture and Natural Resources upon the recommendation of the Director of Mines. Insofar as pertinent hereto, said Mines Administrative Order No. V-31 provides:

> 1. Statement of Authority. Pursuant to the provisions of Section 3(e) of Commonwealth Act No. 136 and Section 79-A of the Mining Act as inserted by R.A. 3823, the following rules and regulations are hereby promulgated to implement the intents and purposes of the said Sec. 79-A and for the guidance of all concerned;
>
> 2. Definition of Terms. The following terms, as used in these rules and regulations, shall respectively mean:
>
> x x x x
>
> (b) A "new mine" for purposes of these rules and regulations, is defined as mineral land that has never been in actual commercial production on the date of filing of the application for tax exemption, and not considered to be a continuation and/or expansion of the operation of an existing mine; (Underscoring supplied.)

Petitioner's claim for tax exemption is anchored and predicated on its stand that Sierra Madre Mines falls under the phrase "new mines" as embodied in the law and administrative regulations cited above. Its exemption from the *ad valorem* taxes imposed by the Tax Code during the period from December 7, 1964 to December 6, 1969 is bolstered and justified by the definition of "new mines" given in Mines Administrative Order No. V-31 as referring to the mineral land that has not been in actual commercial production. Petitioner's view is shared and concurred in by the Secretary of Agriculture and Natural Resources who approved its application for tax exemption.

Respondent brushed aside petitioner's stand as "untenable for lack of basis in fact and in law," contending "that the exemption benefit under the provisions of Section 79-A refers to new mining companies venturing for the first time in the mining industry and old mining companies resuming operations and not to the mineral land itself to be developed and operated by mining companies which does not qualify as new mining companies or old mining companies resuming operations." (See page 4, Respondent's memorandum.) Moreover, respondent insisted that the prerogative to issue tax exemption to "new mines" is not lodged in the Secretary of Agriculture and Natural Resources but in the Secretary of Finance under Section 338 of the National Internal Revenue Code. Respondent, therefore, concludes that petitioner is subject to the *ad valorem* taxes imposed by the Tax Code despite the tax exemption certificate issued by the former official because the same is without legal force and effect.

We are at a loss to see how respondent deduced from the provisions of Section 79-A, supra, that the phrase "new mines" should refer to new mining companies venturing for the first time in the mining industry. If we are to adhere, as we should, to the plain and commonly accepted meaning of words in accordance with well-settled rules of interpretation, Mines Administrative Order No. V-31 and petitioner's reliance thereto are undoubtedly correct and justified because the term "new mines" refers to the mineral land and not to mining companies.

Indeed, the ordinary and even jurisprudential meaning of the word "mine" is simply an excavation or pit in the earth from which ores, coal, precious stones, or other mineral substances are removed by digging or other mining methods. (Webster's New International Dictionary of the English Language; 27 Words and Phrases 47, 1954 Cumulative Annual Pocket Part.) A pit or excavation in the earth cannot, by any stretch of the imagination, mean the company digging or getting the ore, metals, coal or precious stones out of the earth. To say, therefore, that under the provisions of Section 79-A, supra, the terms "new mines" and "old mines" refer to mining companies engaged in the mining industry is to ignore the clear and unmistakable meaning of plain words.

(It is basic and fundamental that a statute is not open to construction as a matter of course. It is open to construction only where the language used in the statute requires interpretation, that is, where the wordings of the law are ambiguous, they are susceptible to two or more constructions, or they have doubtful or obscure meaning so that reasonable minds might be uncertain or in disagreement as to its meaning.) Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory construction, and the court has no right to look for or impose another meaning. In the case of such unambiguity, it is the established policy of the courts to regard the statute as meaning what it says, and to avoid giving it any other construction than that which its words demand. The plain and obvious meaning of the language used is not only the safest guide to follow in construing it, but it has been presumed conclusively that the clear and explicit terms of a statute expresses the legislative intention, so that such plain and obvious provisions must control. A plain and unambiguous statute is to be applied, and not interpreted, since such a statute speaks for itself, and any attempt to make it clearer is a vain labor, and tends only to obscurity. (50 Am. Jur. 225.) Changing the words "new mines" and "old mines which resume operation" into "new mining companies venturing for the first time in the mining industry" and "old mining companies resuming operation" is, therefore, modifying, revising or rewriting the terms of Section 79-A of the Mining Act which is tantamount to a usurpation of legislative powers.

It is to be noted that under the provisions of Section 79-A, _supra_, it is the Secretary of Agriculture and Natural Resources, upon the recommendation of the Director of Mines, who is empowered to certify as to what is a "new mine" or an "old mine which resumes operation" that is entitled to the tax exemption provided for therein. The meaning given by the said Secretary to the said phrases, as implemented by Mines Administrative Order No. V-31, is that _they refer to the mineral lands_. This reference conforms to the dictionary and jurisprudential definition of the word "mine." (Since the practice and interpretative regulations by officers, administrative agencies, departmental heads and other officials charged with the duty of administering and enforcing a statute will carry great weight in determining the operation of a statute (Lim Hoa Ting v. Central Bank of the Philippines, 104 Phil. 573; 2 Sutherland, Statutory Construction 516), the definition placed by the Secretary of Agriculture and Natural Resources, the official charged with the administration and enforcement of the Mining Act, can not be ignored and disregarded by respondent.)

Despite the pretensions to the contrary, respondent does not challenge the legality or validity of Mines Administrative Order No. V-31. Neither does he question the authority of the Secretary of Agriculture and Natural Resources to promulgate the said Mines Administrative Order to implement the provisions of Section 79-A of the Mining Act or the power of the said official to certify, as expressly provided in the law, whether or not a mine is a "new mine" or an "an old mine which resumes operation," for purposes of the five-year tax exemption. In fact, respondent "recognizes the power lodged by law on the Secretary of Agriculture and Natural Resources to promulgate rules and regulations to implement the terms and provisions of Section 79-A of the Mining Act, as amended by Republic Act No. 3823." (See pages 7-8, Memorandum of Respondent.) If respondent himself recognizes the power lodged on the said Secretary to promulgate Mines Administrative Order No. V-31 to implement the terms and provisions of Section 79-A of the Mining Act, it follows that respondent is without authority to revise, amend, or modify the terms and conditions thereof by substituting his own concept of what is a "new mine" or an "old mine" different from the definitions stated in the said order.

It seems too clear for serious argument that respondent, even as head of the Bureau of Internal Revenue, does not exercise any administrative supervision over the Secretary of Agriculture and Natural Resources and, therefore, said respondent is without authority to pass upon, amend, change, or revise the rules and regulations lawfully and validly promulgated by the said Secretary. The power of interpretation affecting the validity of Mines Administrative Order No. V-31 is vested exclusively in our courts in view of the principle of separation of powers.

To say, therefore, that the tax exemption certificate issued by the Secretary of Agriculture and Natural Resources to petitioner is without legal force and effect is to incur in self-contradiction. Section 79-A of the Mining Act, in providing for the grant of a five-year complete tax exemption, except income tax, to new mines and old mines which resume operation, indicated the procedure for the implementation and enforcement of the provisions thereof, including the officials empowered to adjudicate and process claims for tax-exemption. Consequently, the tax exemption certificate issued by the Secretary of Agriculture and Natural Resources is the final written attestation or declaration that petitioner is entitled to the tax exemption, after its claim had been duly and properly processed, studied, and adjudicated by his office in accordance with the powers and duties conferred upon him by the provisions of Section 79-A of the Mining Act.

The controversial law involved in this litigation is Commonwealth Act No. 137, otherwise known as the Mining Act, to which Section 79-A belongs, a statute enforced and administered by the Secretary of Agriculture and Natural Resources. On the other hand, Section 338 of the National Internal Revenue Code authorizes the Secretary of Finance to promulgate all needful rules and regulations for the effective enforcement of the said Code and not Section 79-A of the Mining Act. The argument, therefore, that the prerogative to issue the tax exemption certificate belongs to the Secretary of Finance is not sanctioned by law, but it is baseless and without merit.

We note that petitioner filed its application for tax exemption on July 21, 1964, a month before it began the production of minerals in August, 1964. The records do not show that petitioner's mine is a continuation and/or expansion of the operation of an existing one. It is clear, therefore, that said mine comes within the exemption provision of Section 79-A of Commonwealth Act

No. 137, as amended by Republic Act No. 3823. Consequently, petitioner is hereby declared exempt from the ad valorem taxes on the minerals extracted and shipped from its mine during the period from February 25, 1965 to November 29, 1965. The ad valorem taxes paid by it amounting to ₱84,472.27 is refundable. However, no interest shall be added to the refundable amount as its collection was not attended with arbitrariness. (Carcar Electric & Ice Plant Co. v. Coll. of Int. Rev., 50 O.G. 1068, 1075; Comm. of Int. Rev. v. Asturias Sugar Central, Inc., 57 O.G. 2104, 2108-2109.)

WHEREFORE, respondent Commissioner of Internal Revenue is hereby ordered to refund or credit petitioner, Acoje Mining Co., Inc., the sum of ₱84,472.27 corresponding to the ad valorem taxes paid by it on minerals extracted from its Sierra Madre Mines at Palanan, Isabela, during the period from February 25, 1965 to November 29, 1965. Without pronouncement as to costs.

SO ORDERED.

Quezon City, March 30, 1970.

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

R M Umali
ROMAN M. UMALI
Presiding Judge

Ramon Avanceña
RAMON L. AVANCEÑA
Associate Judge