REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

CANLUBANG SUGAR ESTATE,
Petitioner,

- versus - C.T.A. CASE NO. 8

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

This action was originally filed to contest the imposition of ₱5,792.42, representing the 25% surcharge for late payment of the tax on the sales of denatured alcohol, made by petitioner Canlubang Sugar Estate to Standard Alcohol Company (STALCO). After this Court had acquired jurisdiction of the case, the petitioner filed its supplemental petition for review, alleging that the petitioner, upon issue by respondent of a warrant of distraint and levy, paid the sales tax as well as the surcharge of ₱5,792.42, which is in issue herein. Petitioner prayed for the refund of the said ₱5,792.42 paid under protest.

Petitioner Canlubang Sugar Estate is principally engaged in manufacturing sugar at Canlubang, Calamba, Laguna. It also manufactures and distills alcohol for its own use and for sale to the public. During the period from January, 1950 to December, 1952, the petitioner sold and delivered denatured alcohol for industrial purposes to Standard Alcohol Company valued at ₱647,533.28. In the contract of sale, executed by and between the Canlubang Sugar Estate and the Standard Alcohol Company (Exhibits A & B), the latter agreed to pay for all the taxes. Accordingly, every time that a quantity of alcohol was received by the Standard Alcohol Company in Canlubang, Calamba, Laguna, petitioner Canlubang Sugar Estate would pay the tax thereon, and subsequently, the former would reimburse the latter the corresponding amount paid as tax.

On June 19, 1953, the respondent informed the petitioner that it should have paid the percentage sales tax provided for under section 186 of the National Internal Revenue Code, and not the specific tax on denatured alcohol for motive power provided for under section 142 (d) of the same Code. After crediting the petitioner of the amount of specific taxes already paid, the respondent demanded for the payment of the amount of ₱28,992.08 which includes the sum of ₱5,792.42 representing the 25% surcharge for late payment (Exhibit C).

Petitioner Canlubang Sugar Estate admits that it is liable for the payment of the sales tax under section 186 of the Tax Code but it questions the imposition of the 25% surcharge for late payment in the amount of ₱5,792.42. Hence, on September 6, 1954, the petitioner filed the instant petition for review.

On February 8, 1955, due to the warrant of distraint and levy which was issued by the respondent, petitioner Canlubang Sugar Estate, paid the total sum of ₱29,042.08. This amount includes the surcharge of ₱5,792.42 for late payment which is the subject of this appeal. The petitioner, after filing with the respondent a request for refund of the said amount, filed on March 23, 1955, with this Court, its supplemental petition for review, praying for the recovery of the same amount. The supplemental petition was admitted by this Court on March 30, 1955.

The only issue in this case is whether or not petitioner Canlubang Sugar Estate is liable for the payment of the sum of ₱5,792.42 as 25% surcharge for late payment of the percentage tax on the sales of denatured alcohol for industrial purposes to Standard Alcohol Company.

There is no question in the instant case that the percentage sales tax due on petitioner's sales of alcohol to Standard Alcohol Company was not paid within the period prescribed in section 183 of the National Internal Revenue Code. However, the petitioner contends that the late payment was due to the error of the agents of the Government, and therefore it should not be held liable for the 25% surcharge assessed and collected by the respondent. It also argues that it has no motive whatsoever to lower the taxes on its sales to Standard Alcohol Company inasmuch as the latter agreed to pay for all the taxes, and claims it should not be penalized for the late payment by the imposition of the 25% surcharge.

We are of the opinion that the contention of the petitioner has no basis in law. The petitioner cannot validly and legally claim that the late payment of the correct amount of tax on the sales of alcohol was due to the mistake of the Government officials concerned. It cannot advance as a ground for non-liability in the payment of surcharge, the ignorance or inadvertence of the respondent and/or his agents for the Government can neither be estopped nor prejudiced by the mistake or error of its agents (Piñeda vs. Court of First Instance of Tayabas and Collector of Internal Revenue, 52 Phil. 803).

In the case of Government of the Philippine Islands vs. Galarosa, 36 Phil. 338, Justice Moreland, speaking for the Court, stated clearly and distinctly that:

> "Every person of full age is presumed to know the law, and <u>the sums which he should pay for given privileges</u>." (Underscoring supplied)

This is based on the well established and universally recognized principle that ignorance of the law excuses no one. <u>Ignorantia legis neminem excusat</u>. (Art. 3, Civil Code of Phil.; Sec. 12, Rev. Adm. Code; Sec. 68, Rule 123, Rules of Court).

In the case at bar, petitioner Canlubang Sugar Estate is conclusively presumed to know its duty and obligation to pay the percentage tax on the sales made to Standard Alcohol Company, as provided for in section 186 of the Tax Code, and that the same is payable at the end of each calendar quarter as required in section 183 of the same Code. For its failure to pay the tax within the time prescribed, the petitioner should suffer the consequences and pay the corresponding surcharge of 25% of the amount of the tax.

Furthermore, the language of section 183 of the Tax Code is mandatory. "If the percentage tax on any business is not paid within the period prescribed . . . . the amount of the tax <u>shall be increased</u> by twenty-five per centum, the increment to be a part of the tax (underscoring supplied). This provision works out automatically (see Lim Co Chui vs. Posadas, 47 Phil. 460). As soon as the reglamentary period for paying the tax due expires, the surcharge immediately attaches to the principal tax, and is also due and payable. On this matter, respondent Collector of Internal Revenue has no discretion but to impose the corresponding surcharge, as he had done so in the instant case.

We note that the petitioner herein is "aware of the decisions of the Supreme Court holding that the provisions of the tax code providing for surcharge for late payment, is mandatory." (Memorandum for Petitioner, p. 6). However, in filing the instant petition for review the petitioner seems to seek refuge in the following statement of the Supreme Court in the case of Lim Co Chui vs. Posadas, supra:

> "It may possibly be, as intimated by Judge Cooley in his standard treatise on Taxation, volume 2, page 901, that 'there might be excuses for non-payment which would justify the interference of the Courts'. The maxim is: Impossibilium nulla obligatio est. There is no obligation to do impossible things. But here, there is no allegation in the complaint that the inability of the Chinese to pay their taxes on time was due to any order by the Government or to any action taken by the Government, and no allegation that the delay in payment was caused by the fault of him to whom it was paid."

In the case under consideration, we find no valid and strong excuse for the delay of the payment of the percentage sales tax which might justify this Court to intervene and exempt the petitioner from the payment of the surcharge. No order or action was taken by the Government which made it impossible for the petitioner herein to pay the correct amount of tax within the time prescribed by law.

And with more reason in the instant case, the above pronouncement of the Supreme Court should not be applied inasmuch as it appears from the evidence presented by both parties that the late payment of the tax was due to the fault of petitioner itself and not of respondent's agents. The petitioner knew fully well that the denatured alcohol it sold to Standard Alcohol Company was not for motive power but for industrial purposes (p. 25, t.s.n.) and should have complied with its clear and positive duty, which it is conclusively presumed to know, to make and submit a true and complete return of the amount of gross sales to Standard Alcohol Company within 20 days after the end of each calendar quarter, and pay the corresponding percentage tax within the time prescribed by the Tax Code. For its failure to comply with its duty to the state, the petitioner itself is to blame and nobody else.

Moreover, the rule regarding tax payment and the imposition of surcharge in case of late payment, must be strictly observed. This is the established interpretation of said rule in this jurisdiction. In the case of Jamora vs. Meer, 74 Phil. 22, which involves an action to recover a surcharge paid, the Supreme Court, made the following pronouncement:

> "Strong reasons of policy support a strict observance of this rule. Tax laws imposing penalties for delinquencies are clearly intended to hasten tax payments or to punish evasions or neglect of duty in respect thereof. If delays in tax payments are to be condoned for light

> reasons, the law imposing penalties for delinquencies would be rendered nugatory, and the maintenance of the government and its multifarious activities would be as precarious as taxpayers are willing or unwilling to pay their obligations to the state in time. The imperatives of public welfare will not approve of this result."

With reference to the contention of the petitioner that it should not be penalized for the late payment by the imposition of the 25% surcharge since it has no motive to lower the tax on the sales of alcohol to Standard Alcohol Company, we believe that the said contention has no merit and deserves no consideration. It shall suffice to state that the absence or presence of motive is not material in the imposition of the 25% surcharge in case of failure to pay the percentage sales tax within the time prescribed by section 183 of the National Internal Revenue Code.

WHEREFORE, in view of the foregoing considerations, the claim for refund of the sum of ₱5,792.42, representing the 25% surcharge for late payment of the percentage sales tax which was collected by the respondent Collector of Internal Revenue from petitioner Canlubang Sugar Estate is hereby denied, with costs against the petitioner.

SO ORDERED.

Manila, Philippines, August 4, 1955.

MARIANO NABLE
Presiding Judge

I concur:

AUGUSTO M. LUCIANO
Associate Judge