REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

AMERICAN RUBBER COMPANY,
Petitioner,

- versus -

C.T.A.
CASE NO. 978

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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D E C I S I O N

The petitioner is seeking the refund of the sum of ₱12,759.07, representing the sales tax that it paid to the Bureau of Internal Revenue on its sales of various rubber products from January to April, 1959. The claim for refund having been denied, petitioner has appealed.

The production and processing of the various rubber products sold by petitioner are described in the stipulation of facts submitted by the parties as follows:

> III. Petitioner produced the aforesaid forms of rubber from a portion of a tract of land with an area of approximately nine hundred hectares, more or less, situated in Latuan, Isabela, City of Basilan, which petitioner owned and operated as a rubber plantation during the period involved in this case.
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> IV. Petitioner produced the abovementioned forms of rubber in the following manner:
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> The initial step common to the production of all these forms of rubber products is tapping, i.e., the collection of latex (rubber juice) from rubber trees. This is done by the daily cuttings, early in the morning, of a spiral incision in the bark of rubber trees and placing a cup below the lower end of the incision to receive the flow of juice. The collect-

135

ing cup is filled after two hours. The tapper then collects this latex into buckets and carries them to the collecting shed. The tapper subsequently pours the latex collected into big milk cans. The filled milk cans are then immediately taken in motor vehicles to a coagulating shed, also within the premises of petitioner's plantation, where the latex is strained into coagulating tanks to remove foreign matter such as leaves and dirt. After these initial steps, the processes then vary in the production of the various rubber products mentioned above and which we now describe briefly hereunder.

Preserved Rubber Latex.

Fresh latex is diluted with ammonia at the rate of 5 to 5-1/4 ounces to a gallon. This mixture is thoroughly stirred and then poured into empty metal drums. The addition of ammonia preserves the latex in liquid form and prevents its deterioration or the acquisition of a repulsive smell, at the same time maintaining its uniform color. Latex which has been artificially preserved in its liquid form generally lasts for about a month without spoiling. On the other hand, fresh latex in its original state lasts for only about two hours, after which it becomes spoiled.

The company sells preserved latex only upon previous orders of customers who supply empty metal drum containers.

Pale Crepe Nos. 1 and 2
and Ribbed Smoked Sheets
Nos. 1 and 2.

To produce Pale Crepe Nos. 1 and 2 and Ribbed Smoked Sheets Nos. 1 and 2, the petitioner adds to the latex in the coagulating tank about fifteen (15) or sixteen (16) ounces of glacial acetic acid. The mixture is stirred thoroughly, after which aluminum partitions are placed crosswise inside the tank so that the latex will coagulate in uniform slabs. Acetic acid is added to the latex to hasten coagulation and to preserve its fresh state and color. The similarity in the production of Pale Crepe Nos. 1 and 2 and Ribbed Smoked Sheets Nos. 1 and 2 ends at the point of removing the coagulum (Coagulated rubber sheets) from the coagulating tanks.

To produce Pale Crepe No. 1, the coagulum is passed through a series of rollers until the desired thickness is attained, whereupon it is moved to the air-drying house situated in petitioner's plantation and hung for a period of about twelve or thirteen days to dry. There are no mechanical driers used; the air-drying is done naturally. As soon as the Pale Crepe is dried, they are sorted; those which are of uniform pale color are classified as Pale Crepe No. 1 and the rest are classified Pale Crepe No. 2, whereupon they are baled and stored, ready for the market.

Ribbed Smoked Sheets Nos. 1 and 2 are produced practically in the same manner as pale crepe, except that the coagulum is passed only once through a roller provided with ribs after which the flattened and ribbed coagulum is removed to petitioner's smoke-house where it is hung and exposed to heat and smoke from wood fires for about six or seven days in order to be cured. The resulting smoked sheets are sorted and classified into ribbed smoked sheets (RSS) Nos. 1 and 2, baled and stored, ready for the market. No mechanical equipment is used in generating the smoke in the smoke-house.

The petitioner's rollers are powered by engines. If Pale Crepe Nos. 1 and 2 and Ribbed Smoked Sheets Nos. 1 and 2 are not air-dried and smoked, they deteriorate, get spoiled, and the color varies.

<u>Flat Bark Rubber.</u>

Each morning before a tapper makes a fresh incision in the bark of a rubber tree, he gathers the latex drippings from the ground around the tree, called "ground rubber" as well as the dried latex from the incisions made the previous day, called "bark rubber." Ground and bark rubber are not intentionally produced. No chemicals are added to the latex transformed into ground and bark rubber, which, in their original form, are not marketable. This kind of dried latex is spoiled and has a bad odor.

Ground and bark rubber in sufficient quantities are passed numerous times through the rollers or mills until they form a uniform mass or sheet which, finally, is called Flat Bark Rubber. No chemical is used to coagulate the dried ground and bark rubber, because they are already coagulated. They are formed into sheets by means only of pressure of the mills or rollers through which they are passed.

3 X Brown Crepe Rubber.

Every morning, before a fresh incision is made in the bark of the rubber tree, the tapper collects not only ground and bark rubber but removes and collects the latex in the cups, known as "cup rubber." The cup rubber coagulates and dries through natural processes and, when gathered in sufficient quantities, milled and rolled through a series or follers until by force of pressure it forms into a mass of the desired thickness called "3 X Brown Crepe." Like ground and bark rubber, no chemicals are added to cup rubber to produce 3 X Brown Crepe. Cup rubber in its original form, like ground and bark rubber, is not marketable because it is spoiled and has a bad odor.

2 X Brown Crepe Rubber.

2 X Brown Crepe is obtained by milling or rolling the excess pieces of coagulated rubber latex cut over from the smoked sheet No. 2 into a uniform mass. 2 X Brown Crepe is produced in the same manner as the other sheets of crepe rubber, i.e., without the addition of any chemical.

V. The expert testimony of Mr. Michael Komaromi taken before the Clerk of Court of the Court of Tax Appeals on April 7, 1960 at 10:00 A.M. in connection with the trial of Court of Tax Appeals Cases Nos. 356, 440 and 632 which involve the same parties and identical issues as shown by the attached copy of the deposition consisting of 57 pages, is incorporated and made part hereof as Annex "A". (See pp. 89-91, C.T.A. records.)

The sum of ₱12,759.07 refund of which is sought by petitioner is itemized as follows:

1.	Pale Crepe No. 1 --------	₱5,016.42
2.	Pale Crepe No. 2 --------	71.91
3.	Ribbed Smoked Sheet No. 1	5,844.26
4.	Ribbed Smoked Sheet No. 2	375.00
5.	Flat Bark Rubber --------	596.20
6.	3 X Brown Crepe ---------	283.30
7.	2 X Brown Crepe ---------	571.98
	Total --------	₱12,759.07

Petitioner claims that its sales of the aforesaid rubber products produced and sold by it are exempt from the sales tax by virtue of Section 188(b) of the National Internal Revenue Code, as amended, which exempts from said tax sales of "agricultural products . . . whether in their original form or not when sold, bartered, or exchanged in this country by the producer or owner of the land where produced." On the other hand, respondent claims that the said rubber products are not agricultural products but manufactured articles, and, therefore, sales thereof by petitioner, as manufacturer, are taxable.

In a previous case instituted by petitioner (American Rubber Company v. Coll. of Int. Rev., C.T.A. No. 111, June 14, 1956)[1] this Court expressed the view that the nature of the labor employed in the processing of agricultural products and preparing the same for the market determines whether or not the said products remain "agricultural products" within the mean-

[1]Appealed to the Supreme Court by both parties in G. R. Nos. L-10963 and L-11178. See also C.T.A. Nos. 356, 440 and 632, instituted by petitioner, and are pending in the Supreme Court in G. R. Nos. L-19697, L-19851, L-19802 and L-19803.

ing of Section 188(b) of the Revenue Code, or manufactured articles taxable under Section 186. In line with this opinion, it was held that Flat Bark Rubber and 3 X Brown Crepe are agricultural products because the labor employed in the processing thereof is agricultural labor and the sales of such products by petitioner as producer or owner of the land where produced are exempt from the sales tax; while Pale Crepe Nos. 1 and 2, Ribbed Smoked Sheets Nos. 1 and 2 and 2 X Brown Crepe are manufactured articles the sales of which by petitioner as manufacturer are taxable under Section 186. Consequently, only the sales tax paid on the sales of Flat Bark Rubber and 3 X Brown Crepe amounting to ₱879.50 is refundable, while the claim for refund of the sum of ₱11,879.57 as sales tax paid on sales of Pale Crepe Nos. 1 and 2, Ribbed Smoked Sheets Nos. 1 and 2 and 2 X Brown Crepe must have to be denied.

Petitioner claims that respondent be required to pay interest at the legal rate on the amount refundable to it. It has been held that the Government may be held liable to pay interest where the collection of the tax was attended with arbitrariness. We find nothing to show that the collection of the tax in question was made arbitrarily; hence, petitioner is not entitled to interest. (See Gibbs v. Coll. of Int. Rev., G. R. Nos. L-14166 & L-14320, April 28, 1962.)

IN VIEW OF THE FOREGOING, the decision appealed from is hereby modified, and respondent is ordered to refund to petitioner the sum of ₱879.50, without interest. No pronouncement as to costs.

SO ORDERED.

Manila, December 18, 1962.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge