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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CEBU PORTLAND CEMENT
COMPANY,
Petitioner,

versus

C.T.A. CASE NO. 1336

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

11/12/75

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D E C I S I O N

This case involves a claim for refund of overpaid <u>ad valorem</u> taxes for the period from January 1, 1961 to June 30, 1962.

Petitioner is a government-owned or controlled corporation engaged in the production and sale of cement, a finished product composed of more than 80% limestone extracted from its mineral lands at Naga, Cebu.

On the basis of the gross selling price of its cement products from January 1, 1961 to June 30, 1962, less the cost of containers, petitioner paid <u>ad valorem</u> tax in the total amount of ₱145,494.43.

On the theory that it had overpaid the <u>ad valorem</u> tax for said period, petitioner filed with respondent a written claim for refund on January 10, 1963 for the sum of ₱133,588.15, or alternatively, the sum of ₱12,846.26, computed as follows:

Ad valorem tax paid		₱ 145,494.43
Total Cost of Raw Materials Quarried and Crushed:		
Jan. 1 to June 30, 1961 .	₱270,544.76	
July 1 to June 30, 1962	523,207.52	
Total Amount Taxable	₱793,752.28	
Tax due for the period (1½% of ₱793,752.28)		11,906.28
OVERPAYMENT		₱ 133,588.15

Ad valorem tax paid		₱ 145,494.43
Total gross sales - ₱11,426,278.56		
Deduct: Total Administrative expenses	2,583,067.02	
Net taxable sales	₱ 8,843,211.54	
Ad valorem tax due		132,648.17
OVERPAYMENT		₱ 12,846.26

On February 21, 1963, without waiting for the decision of respondent on its claim for refund, petitioner filed the instant appeal.

While this case was pending in Court, the Supreme Court laid down the rule that the basis of the ad valorem tax on cement under Section 243 of the Tax Code is the actual market value of the quarried minerals used in the production of cement and not the market value of cement. (Cebu Portland Cement Co. v. Comm. of Int. Rev., G.R. No. L-18649, Feb. 1965 and Dec. 29, 1967.) or the cost of production of the raw materials (Republic Cement Corp. v. Comm. of Int. Rev., et al., G.R. No. L-20660, June 13, 1968).

During the hearing of this case both parties showed to the Court that the quarried minerals or limestone used in producing petitioner's cement has no actual market value since there is no market for it and the only way by which they could comply with the aforesaid ruling was to apply certain theories or formulas which would fairly approximate the market value of the quarried mineral or limestone.

The formula presented by the respondent which has been studied and devised by a group composed of revenue examiners is to extract the ratio or proportion of the cost of production of limestone over the cost of production of cement and multiply said ratio by the gross profit or gross loss, as the case may be, realized from the sale of cement. The product should then be added to (in case of a profit) or subtracted from (in case of a loss) the cost of production of limestone. Respondent's computation of the refundable amount applying said method is as follows:

Raw material cost.	₱ 793,752.28
Cost of manufacturing cement	13,640,598.16
Gross Profit (Loss) realized in sale of cement	2,214,319.60
Computation of approximate market value of raw materials:	
Raw material (Limestone) cost . . . Over: Cost of manufacturing cement	₱ 793,752.28 / 13,640,598.16 =
Ratio of raw material (limestone) cost as it bears to cement manufacturing cost	.059

DECISION -
CTA CASE NO. 1336

Gross loss realized for the period. . .	₱ 2,214,319.60
x the ratio of raw materials	x .059
Raw material cost	₱ 793,752.28
Less: Share in realized loss	130,643.86
Market value of raw materials . . . (Basis of 1½% ad valorem tax)	₱ 663,108.42
x 1½% ad valorem tax	x 1.5
Ad valorem tax due on the market value of raw materials	₱ 9,947.63
Ad valorem tax paid	₱ 145,494.43
Less: Ad valorem tax due	9,947.63
Ad valorem tax refundable	₱ 135,546.80

In other words, under the formula of respondent, the *ad valorem* tax refundable to petitioner for the period in question amounts to ₱135,546.80.

Petitioner at first could not agree to the formula presented by respondent but after a re-hearing it manifested to the Court its willingness to abide by the said formula and accept the refund of ₱135,546.80 as overpaid *ad valorem* tax.

WHEREFORE, as it appears that there is no more genuine controversy between the parties, the Court hereby renders this judgment ordering the respondent to refund to the petitioner the sum of ₱135,546.80 as overpaid *ad valorem* tax for the period from January 1, 1961 to June 30, 1962. No costs.

SO ORDERED.

Quezon City, November 12, 1975.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge