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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PLANTERS PRODUCTS, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3235

2/3/88

COMMISSIONER OF CUSTOMS and
COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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D E C I S I O N

Petitioner corporation is a corporation duly organized and existing under the laws of the Philippines. It is engaged in the manufacture and sale of fertilizers and agricultural chemicals. In connection with its business, petitioner, in 1979, imported the following:

162 steel drums - Dursban Xylene Mixture
10 fibre drums - Plictran 50 W

This importation is covered by commercial invoice, consular invoice and bill of lading. (Exhs. A, B & C.)

Petitioner, on April 23, 1979, paid the total amount of ₱920,549.00 for duties and taxes on the aforesaid importation. (Exhs. D & D-1.)

The assessments made upon petitioner's importation was premised on the classification of Dursban Xylene Mixture under Tariff Heading No. 38.11A with an ad valorem of 20%. (Exhs. E & E-1.)

It was found out later by petitioner that the Tariff Commission had previously, or on April 18, 1979, issued a ruling classifying Dursban Xylene Mixture under Tariff Heading No. 29.34 with an ad valorem rate of 10% to wit:

> "Subject article (Dursban Xylene Mixture) is classifiable under heading Nos. 29.31 which provide for organo-sulphur compounds and 29.34 which provides for other organo-inorganic compounds that goods which could be included in two or more of the headings of this chapter are to be classified in the latest of those headings.
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> In view of the foregoing, subject article is classified in heading 29.34 of Presidential Decree No. 1464 otherwise known as the Tariff and Customs Code of 1978 with a rate of duty of 10% ad valorem."

Based on said ruling, at an ad valorem rate of 10%, the duties and taxes that should have been paid by petitioner on the above described importation should have been only ₱634,766.00, instead of ₱920,549.00. The actual payment made by the petitioner for duties and taxes is in excess by ₱285,783.00.

In another importation involving the same commodity by petitioner, the same was subjected to 10% rate of duty (Exhs. G & G-1). In a note by Atty. Hermogenes Elfante of the Bureau of Customs requesting for the classification of "Dursban Xylene Mixture", the Customs personnel assessed it subsequently at 10% rate of duty.

Immediately upon realizing such discrepancy, the petitioner filed claims for refund thereof. (Exhs. I & I-1; J & J-1; K & K-1.) No refund has been granted by petitioner of this overpayment of duties and taxes.

Hence, petitioner filed the instant petition for review.

Respondent had submitted his case for decision on the basis of the pleadings. The evidence of petitioner overwhelmingly shows that there was in fact a discrepancy in the payment of ad valorem tax; that instead of only ₱634,766, it actually paid a total of ₱920,549.00, or an excess of ₱285,783.00. Hence, we hold that petitioner is entitled to the refund of the sum of ₱285,783.00.

WHEREFORE, respondent Commissioner of Customs is hereby ordered to refund to petitioner Planters Products, Inc. the sum of ₱285,783.00 without interest.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, February 3, 1988.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

C E R T I F I C A T I O N

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

AMANTE FILLER
Presiding Judge
Court of Tax Appeals