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COURT OF TAX APPEALS
MANILA

July 30, 1960

MINDANAO BUS COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 710

THE CITY TREASURER & ASSESSOR
and THE BOARD OF TAX APPEALS
of Cagayan de Oro City,
Respondents.

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

D E C I S I O N

The petitioner is a public utility company engaged in land transportation in Mindanao. It has its main office in Cagayan de Oro City where it maintains a garage, repair shop, blacksmith and carpentry shops. It owns certain machineries used in the operation of said shops which were assessed by the City Assessor of Cagayan de Oro City for purposes of the real property tax. Not satisfied with the assessment, petitioner appealed to the City Board of Assessment Appeals of Cagayan de Oro City. Said Board having affirmed the assessment, petitioner has appealed to this Court.

The parties submitted a stipulation of facts, pertinent portions of which read as follows:

> 1. That petitioner is a public utility solely engaged in transporting passengers and cargoes by motor trucks, over its authorized lines in the Island of Mindanao, collecting rates approved by the Public Service Commission;
>
> 2. That petitioner has its main office and shop at Cagayan de Oro City. It maintains Branch offices and/or stations at Iligan City, Lanao; Pagadian, Zamboanga del Sur; Davao City;

and Kibawe, Bukidnon Province;

3. That the machineries sought to be assessed by the respondent as real properties are the following:

(a) Hobart Electric Welder machine, appearing in the attached photograph, marked Annex "A";

(b) Storm Boring machine, appearing in the attached photograph, marked Annex "B";

(c) Lathe machine with motor, appearing in the attached photograph, marked Annex "C";

(d) Black and Decker Grinder, appearing in the attached photograph, marked Annex "D";

(e) PEMPCO Hydraulic Press, appearing in the attached photograph, marked Annex "E";

(f) Battery charger (Tungar charge machine) appearing in the attached photograph, marked Annex "F";

(g) D-Engine Waukesha-M-Fuel, appearing in the attached photograph, marked Annex "G";

4. That these machineries are setting upon or resting on cement or wooden platforms as may be seen in the attached photographs which form part of this agreed stipulation of facts;

5. That petitioner is the owner of the land where it maintains and operates a garage for its TPU motor trucks; a repair shop; blacksmith and carpentry shops, and with those machineries which are placed therein, its TPU trucks are made; body constructed; and same are repaired in a condition to be serviceable in the TPU land transportation business it operates;

> 6. That these machineries have never been or were never used as industrial equipments to produce finished products for sale, nor to repair machineries, parts and the like offered to the general public indiscriminately for business or commercial purposes for which petitioner has never engaged in, to date.

Petitioner assails the assessment on two grounds, namely: (1) that the machineries in question are not real but personal properties, and (2) that the assessment, or valuation, of said machineries is excessive.

The machineries in question are sought to be taxed as real property by virtue of Secs. 30, et seq. of Republic Act No. 521 (Charter of Cagayan de Oro City), in relation to Article 415 of the Civil Code, which provides:

> ART. 415. The following are immovable property:
>
> x x x x
>
> (5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works; x x x.

There is no question that the said machineries are not permanently attached to the land or buildings owned by petitioner. However, respondent contends that said machineries have acquired the character of immovables by destination, because they have been placed in the shops of petitioner and are intended and are actually used in its business. (See Decision of respondent, Annex D of the Petition for Review, pp. 9-10, CTA records.) We agree with respondent that, pursuant to paragraph (5) of Art. 415 of the Civil Code, said machineries have acquired the character of immovable property by destination as they have been placed in the shops of petitioner and are intended and are actually used in connection with its transportation business. It is not denied that the use of said machineries by petitioner tend directly to meet the needs of its business or industry. They may reacquire their condition as movables only if they are separated, not from the immovable, but from the industry or work in which they are utilized. Therefore, the fact that on certain occasions some of the machineries, specifically the battery charger, were brought to some other stations maintained by petitioner to repair its trucks will not alter their condition as immovables as long as said machineries continue to be used in its industry by petitioner.

It is argued on behalf of petitioner that paragraph (5) of Article 415 of the Civil Code does not apply to said machineries because it is not engaged in an industry. We quote from the memorandum of counsel for petitioner:

> This provision is therefore not applicable to the machineries sought to be assessed, for these are not used DIRECTLY in an industry; petitioner does not use them in an industrial processing of raw materials into finished products, such as the bottling plants of the Pepsi-Cola, or the San Miguel Brewery, manufacturing beer, or soft drinks directly; or a sugar

> mill or corn and rice mill directly producing refined sugar or rice by direct process, for public sale. These tools and machines in question are used merely to repair the buses; or construct the bodies of these buses, which when completed are not for sale, but for use in its sole business as a public utility, transporting passengers and cargoes, under the control and regulations of the Public Service Commission. (See pp. 3-4, Memoraddum for Petitioner.)

Counsel for petitioner would limit the meaning of the term "industry" to businesses which are engaged in by persons or entities for the production or manufacture of goods for sale. We do not think that the term as used in Article 415 of the Civil Code has such a limited meaning. It has been defined as a department or branch of art, occupation or business. (Webster's International Dictionary.) Therefore, the transportation business is an industry.

Finally, it is contended that the valuation of said machineries made by the City Assessor of Cagayan de Oro City and affirmed by respondent is excessive. The values of said machineries as appraised by the City Assessor are as follows:

Machinery	Original Cost	Depreciation	Present Value
Lathe w/ Motor	₱1,007.00	50%	₱ 500.00
Storm Boring Machine	1,008.47	50%	500.00
Battery Charger Machine	356.25	50%	180.00
Black & Decker Grinder	525.56	50%	260.00
Pempco, Hydraulic Press	1,938.55	50%	970.00
D-Engine, Waukesha-M-Fuel	2,749.42	50%	1,370.00
Hobert, Electric Welder	1,234.30	50%	620.00
Total assessed value - - - - - -			₱4,400.00

It is contended that said machineries have been fully depreciated and that their salvage value is practically nil. We find, however, from the evidence presented by petitioner itself that the valuation made by the City Assessor is in accordance with the valuation made by petitioner in Tax Declaration No. 29198, Exhibit C, wherein petitioner claimed a depreciation allowance of 50% of the original cost. (See page 53, C.T.A. records.) Consequently, there is no merit in the allegation that the valuation made by the City Assessor is excessive.

Finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, July 30, 1960.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ALFONSO L. LUCIANO
Associate Judge