ALHAMBRA INDUSTRIES, INC.,
LA FLOR DE LA ISABELA,
INCORPORADA, and COLUMBIA
TOBACCO COMPANY, INC.,
Petitioners,

- versus -

C.T.A. CASE No. 2031

Nov. 28 - 70

HON. MISAEL P. VERA, in his
capacity as Commissioner of
Internal Revenue,
Respondent.

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DECISION

Petitioners, all duly organized domestic corporations, instituted the present action for the refund of the tobacco inspection fees paid by them to respondent on the cigars and cigarettes manufactured and removed from their factories for domestic sale and consumption covering the period from September 1967 to April 1969, inclusive.

There is no dispute as to the material facts of the case. As the resolution of the controversy involves purely a question of law, petitioners submitted this case for summary judgment.

On August 22, 1967, respondent Commissioner of Internal Revenue issued Memorandum Circular No. 30-67 requiring, among others, the inspection of all manufactured products of tobacco intended for domestic sale and the collection from cigar and cigarette manufacturers of the tobacco inspection fees imposed by Section 302 of the National Internal Revenue Code.

Under said Memorandum Circular, petitioners paid to respondent the tobacco inspection fees on the cigars and cigarrettes manufactured and removed from their factories for domestic sale and consumption.

Subsequently, petitioners' counsel requested the refund or tax credit of the amounts paid by his clients, itemized as follows:

Petitioners	Date Paid	Amount Paid	Period Covered
Alhambra Industries, Inc.	Sept. 12, 1968	₱ 64,525.68	Sept. 1967 - July 1968, inclusive
La Flor de la Isabela	"	9,837.91	Sept. 1967 - July 1968, inclusive
Alhambra Industries, Inc.	Jan. 24, 1969	28,807.80	Aug. - Dec. 1968
La Flor de la Isabela	"	3,195.12	" "
Columbia Tobacco Co., Inc.	Feb. 26, 1969	56,569.17	Sept. 1967 - Dec. 1969
Alhambra Industries, Inc.	May 16, 1969	18,460.89	Jan. to April 1969
La Flor de la Isabela	"	110.70	" "
Columbia, Inc.	"	18,124.92	" "
T o t a l ...		₱ 199,632.19	

All requests of petitioners' counsel for refund or tax credit were disposed of by respondent in the following manner, to wit:

> ". . . the legal issues involved in your clients claim for tax credit are similar to the issues raised in the case entitled 'U.S. Tobacco Corporation vs. Commissioner of Internal Revenue' which is pending in the Court of Tax Appeals in CTA Case No. 1973.
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> "In view thereof, this Office will hold in abeyance the final adjudication of your client's claims for tax credit until the aforesaid court case is resolved by the Court of Tax Appeals."

In order to meet the prescriptive period of two years set by Section 306 of the Revenue Code for instituting action for refund and/or tax credit, petitioners filed with this Court the instant petition for review on July 30, 1969.

The issues raised for resolution are the following:

> 1. Whether or not the phrase "tobacco for domestic sale" found in Section 6(c) of Act 2613 (Tobacco Inspection Law), as amended by Republic Act No. 31, includes tobacco products such as cigars and cigarettes; and
>
> 2. Whether or not the collection of the tobacco inspection fees required under Revenue Memorandum Circular No. 30-67, dated August 22, 1967, is legal and justified.

For a better understanding of the controversial phrase "tobacco for domestic sale or factory use," we will delve into the historical background of the law.

The Tobacco Inspection Law (Act No. 2613) was enacted by the Philippine Legislature on February 4, 1916, authorizing the Collector (now Commissioner) of Internal Revenue to establish general and local rules concerning the classification, marking and packing of tobacco for domestic sale or factory use and for exportation. Subsequently, two implementing regulations were issued by the Department of Finance, through the recommendation of the Collector of Internal Revenue, namely: Regulations No. 17 and No. 47, issued on July 8, 1920 and May 12, 1925, respectively. Both regulations prescribed the manner of handling, packing, classifying, grading, inspection and shipment of leaf tobacco and partially manufactured tobacco from places of origin to local destination and manufactured products of tobacco for export.

On October 1, 1946, the law which became Republic Act No. 31 was approved. It amended certain sections of Act No. 2613, particularly Section 6(c) thereof, the interpretation of which is now in controversy.

Section 6(e) of Act No. 2613 before and after its amendment are worded as follows:

> Section 6(c) - To require, whenever it shall be deemed expedient, the inspection of and affixture of inspection labels to tobacco removed from the province of its origin to another or other provinces before such removal.

> Section 6(c) - To require whenever it shall be deemed expedient, the inspection of and affixture of inspection labels to tobacco removed from the province of its origin to another or other provinces before such removal, or <u>to tobacco for domestic sale or factory use.</u>

The interpretation of the underlined phrase "tobacco for domestic sale or factory use" found in the amendatory law is the principal issue. Petitioners contended that the word "tobacco" found in Section 6(e) of the law refers to leaf tobacco alone and does not embrace tobacco products such as cigars and cigarettes. Petitioners, therefore, disputed respondent's Memorandum Circular No. 30-67, requiring the inspection of all manufactured products of tobacco intended for domestic sale and the collection of the tobacco inpsection fees imposed by Section 302 of the Revenue Code which provides:

> SEC. 302. <u>Inspection Fees.</u>- For inspection made in accordance with this Chapter, there shall be collected a fee of <u>thirty centavos for each thousand cigars</u> or fraction thereof in the lot offered for in-

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> spection; <u>three centavos for each thousand cigarettes</u> or fraction thereof in the lot offered for inspection; <u>fifty centavos for each one hundred kilograms of leaf tobacco</u> or fraction thereof in the lot offered for inspection; and <u>one centavo for each kilogram or fraction thereof, of other manufactured tobacco</u> in the lot offered for <u>inspection</u>. (Emphasis supplied)

Respondent vigorously contends that the phrase "tobacco for domestic sale" found in the amendatory law comprehends manufactured cigars and cigarettes for domestic sale and consumption.

Petitioners' contention that the phrase "tobacco for domestic sale" refers to leaf tobacco alone is restrictive, misleading, and against sound statutory construction.

Webster's New International Dictionary 2nd edition, p. 2658, defines <u>tobacco</u> as the leaves of the tobacco plant, prepared by drying and various manufacturing processes, and used either for smoking or chewing, or as snuff, or the <u>manufactured products from tobacco leaves</u>; smoking or chewing tobacco, cigars, cigarettes, etc. collectively.

From the above definition, it is clear that the word "tobacco" refers both to leaf and manufactured tobacco such as cigars and cigarettes. It is to be noted that either Section 6(e) of

Act No. 2613 or the amendatory law does not make a distinction as to the meaning of the word "tobacco". Since our law-making body used the word tobacco in a general sense without any qualification, this Court is powerless to give it a restrictive meaning. Thus, it was held:

> ". . . It is well-settled that statutory provisions should not be given a restricted meaning where no restriction is indicated by the terms of the statute itself. (Lo Cham v. Ocampo, 77 Phil. 635.) Or, stated in broader and more familiar terms, where the law does not distinguish, neither may we. (Board of Assessment Appeals of Laguna v. Court of Tax Appeals, G.R. No. L-18125, May 31, 1963.)" (Procter & Gamble Manufacturing Corporation v. Comm. of Int. Rev., C.T.A. Case No. 1861, May 30, 1970.)

Moreover, whenever our Revenue Code uses the term "tobacco", whether as manufacturer or dealer, it refers to tobacco products. Instances of the legislative intent is manifested in the following provisions:

> SEC. 194. Words and phrases defined. x x x
>
> x x x x x
>
> (m) "Manufacturer of tobacco" includes every person whose business it is to manufacture tobacco or snuff, or who employs others to manufacture tobacco or snuff, whether such manufacture be by cutting, pressing, grinding, or rubbing any raw or leaf tobacco, or otherwise preparing raw or leaf tobacco, or manufactured or partially manufactured tobacco and snuff, or putting

up for consumption scraps, refuse, or stems of tobacco resulting from any process of handling tobacco stems, scraps, clippings, or waste by sifting, twisting, screening, or by any other process.

x x x x x

(c) "Wholesale tobacco dealer" comprehends every person who for himself or on commission sells or offers for sale cigars, cigarettes or manufactured tobacco in larger quantities than two hundred cigars . . . (Underscoring supplied.)

If we were to adopt petitioners' restrictive view of the meaning of tobacco as referring solely to leaf tobacco, then this Court would be declaring the action of our law-making body a mere exercise in futility, thereby rendering nugatory the provisions of Sections 6(a), 6(b), 6(c), and 7 of Act No. 2613, as amended by Republic Act No. 31, which read as follows:

"SEC. 6. The Collector of Internal Revenue shall have the power and it shall be his duty:

"(a) To establish general and local rules respecting the classification, marking, and packing of tobacco for domestic sale or factory use and for exportation so far as may be necessary to secure leaf tobacco of good wuality and to secure its handling under sanitary conditions, and to the end that leaf tobacco be not mixed, packed, and marked as of the same quality when it is not of the same class and origina

"(b) To establish from time to time adequate rules defining the standard and the type of leaf and manufactured tobacco which may be exported, as well also as the manner in which standard tobacco, shall be packed. Before establishing the rules above specified, the Collector of Internal Revenue shall give due notice of the proposed rules or amendments to those interested and shall give them an opportunity to present their objections to such rules or amendments.

"(c) To require, whenever it shall be deemed expedient, the inspection of and affixture of inspection labels to tobacco removed from the province of its origin to another or other provinces before such removal, or to tobacco for domestic sale or factory use."

"SEC. 7. No leaf tobacco or manufactured tobacco shall be exported until it shall have been inspected by the Collector of Internal Revenue or his duly authorized representative and found to be standard for export. Collector of Customs shall not permit the exportation of tobacco from the Philippines unless the shipment be in conformity with the requirements set forth in this Act. The prohibition contained in this section shall not apply to waste and refuse tobacco accumulated in the manufacturing process when it is invoiced and marked as such waste and refuse."

From the foregoing provisions, it can be seen that leaf tobacco and tobacco products for export are subject to the tobacco inspection fees.

If Congress of the Philippines really intended to restrict the meaning of the word "tobacco" under Republic Act No. 31, which took effect October 1, 1946, in order to limit the scope of the term tobacco under the law originally passed in 1916 and its implementing Regulations Nos. 17 and 47, it could have easily inserted the word "leaf" to modify "tobacco" contained in the amendatory law. An examination of Sections 6(a), 6(b) and 7, supra, reveals that, if our law-making body intended to limit the coverage of said sections to either leaf or manufactured tobacco, it qualified the word "tobacco" with such antecedent words. In Section 6(e) of Act No. 2613, as amended, no such qualification was made by Congress, thereby showing the broad scope and meaning of the word tobacco. For the Court to adopt petitioners' construction that tobacco means "leaf tobacco" would be engaging in unauthorized judicial legislation by rewriting the law and inserting words and phrases not found in it.

It is a settled doctrine in statutory construction that when the language of a particular section of a statute admits of more than one meaning, the evident purpose and object sought to be attained by the enactment of the statute as a whole must be given force and effect. The inspection, therefore, of both leaf and manufactured tobacco under Section 6(e) of Act No. 2613, as amended, falls within the legislative object and purpose as manifested in the title of the amendatory law which reads as follows:

> "An Act to Improve the Methods of Production and the Quality of Tobacco in the Philippines and to Develop the Export Trade therein." (Underscoring ours.)

Even the Philippine Tobacco Board (petitioners are members thereof), after Memorandum Circular No. 30-67 of respondent was promulgated, adopted Resolution No. 2-67 interpreting the phrase "tobacco for domestic sale" as referring to wholesale disposal of tobacco products by cigar and cigarette factories to its dealers while the phrase "tobacco for factory use" meant "imported leaf tobacco" intended for use by cigar and cigarette factories in the manufacture of tobacco products.

Petitioners claimed that before the enactment of Republic Act No. 31, amending Section 6(e) of Act No. 2613, former Collectors and Commissioners of Internal Revenue had never imposed and collected tobacco inspection fees on cigar and cigarettes removed for domestic sale or consumption. It is argued, therefore, that respondent should follow the interpretation of his predecessors who ruled that the word "tobacco" refers to leaf tobacco alone.

The fallacy of petitioners' argument lies in the fact that, long before the last war up to the present time, tobacco inspection fees were collected on manufactured cigars for export and, therefore, the word "tobacco" is not applied to leaf tobacco alone but it also includes tobacco products for export like cigars, chewing tobacco, etc.

Petitioners relied mainly on the explanatory note to the bill which became Republic Act No. 31. They alleged that the word "tobacco" refers to "leaf tobacco" for domestic sale or for exportation. The phrase "tobacco for . . . factory use" undoubtedly refers to "leaf tobacco" under the amendatory law (Sec. 6/c/, Republic Act No. 31). Congress, however, omitted the descriptive word "leaf" and used the phrase "tobacco for domestic sale or factory use". Since tobacco products for exportation such as cigars and chewing tobacco are subject to tobacco inspection fees long before the last war and up to the present time, the deletion or non-inclusion of the descriptive word "leaf" from the controversial phrase "tobacco for domestic sale or factory use" indicates a legislative intent to protect the local consumers of tobacco products. Certainly, our lawmakers cannot be more solicitous of the health and smoking pleasure of foreign consumers of tobacco products than of our own local consumers. Moreover, considering the amendatory law and even under the original law, respondent is not precluded from rectifying the erroneous interpretation of the law made by his predecessors. (Tan Guan v. Court of Tax Appeals, et al., G.R. No. L-23676, April 27, 1967; Philippine American Drug Co. v. Coll. of Int. Rev., G.R. No. L-13032, Aug. 31, 1959.)

Petitioners assailed the discriminatory ruling of respondent in that the uniformity rule in taxation prescribed by the Constitution was not observed because said respondent failed to impose and collect tobacco inspection fees on imported cigars and cigarettes. We are not impressed with petitioners' argument on this point because the uniformity rule in taxation refers to "geographical uniformity" and cannot be made applicable to imported cigars and cigarettes which were manufactured outside the Philippines.

Petitioners assailed the collection of tobacco inspection fees on the theory that Memorandum Circular No. 30-67 is illegal because no inspection had actually been made by the Tobacco Inspection Service and the Tobacco and Miscellaneous Division of the Bureau of Internal Revenue on the manufactured cigars and cigarettes and no inspection labels had been affixed thereto. The said allegation was not proven by petitioners because no formal hearing on this case was conducted by the court. It may be stated that respondent is authorized to appoint tobacco inspectors under Act No. 2613 and that Section 9 thereof provides as follows:

> SEC. 9. The Collector of Internal Revenue may appoint inspectors of tobacco for the purpose of making the inspection herein required and may also detail any officer or employee of the Bureau to perform such duty. . . (Underlining supplied.)

Pursuant thereto, respondent issued Memorandum Circular No. 30-67, dated October 11, 1967, addressed to "All Manufacturers of Tobacco Products." The memorandum in question had been served to and received by petitioners. They were advised that the "inspection made by the Bureau of Internal Revenue agents assigned in the factories of total removal of cigar and cigarettes and other tobacco products for domestic sale for each month beginning September 1, 1967 which entries are made in the factories' respective records of production and removal under the direct supervision of the Bureau of Internal Revenue representatives shall be deemed sufficient compliance with the inspection requirements of said Revenue Memorandum Circular No. 30-67." (p. 26, BIR rec.)

In the absence of testimonial and documentary evidence, it is presumed that the tobacco inspectors and/or officers or employees assigned by respondent in the tobacco and cigarette factories performed their duties in the regular course of business.

For the foregoing considerations, this Court holds that the word "tobacco" and the phrase "tobacco for domestic sale" found in Section 6(c) of Act No. 2613, as amended by Republic Act No. 31, includes manufactured tobacco such as cigars and cigarettes. The collection, therefore, of the tobacco inspection fees on the cigars and cigarettes removed by the petitioners from their factories for domestic sale is legal and justified.

WHEREFORE, the various claims of petitioners seeking the refund from the respondent Commissioner of Internal Revenue of the tobacco inspection fees paid by them are hereby denied, without pronouncement as to costs.

SO ORDERED.

Quezon City, November 28, 1970.

(Sgd.) ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

(Sgd.) ROMAN M. UMALI
Presiding Judge

(Sgd.) RAMON L. AVANCEÑA
Associate Judge