REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LIBERATION STEAMSHIP
COMPANY, INC.,
Petitioner,

-versus- C.T.A. CASE No. 976

THE COMMISSIONER OF
INTERNAL REVENUE and
the COMMISSIONER OF
CUSTOMS,
Respondents.
x- - - - - - - - - - - - -x

June 3/70

D E C I S I O N

Petitioner appealed from the decision of respondent Commissioner of Internal Revenue holding it liable for the payment of compensating tax on a vessel acquired from the Reparations Commission.

Sometime in October, 1960, petitioner, a domestic corporation organized and existing under the laws of the Philippines, acquired from the Reparations Commission under a contract of conditional purchase and sale the ocean-going vessel M/S "Dagohoy" for ₱6,868,577.78, for the acquisition of which the compensating tax of ₱481,401.00 was assessed by the respondent Commissioner of Internal Revenue.

Petitioner contested and assailed the validity of the said tax assessment, but respondent Commissioner of Internal Revenue refused to reconsider the same. Accordingly, the respondent Commissioner of Customs refused to release and deliver the vessel to petitioner unless the compensating tax was first paid. Thereafter, petitioner appealed to this Court, asking that the vessel be delivered to it without prepayment of the compensating tax, upon the filing of a bond to secure payment of the tax in case petitioner is finally held liable therefor. In a resolution dated November 29, 1960, this Court issued a writ of preliminary injunction against respondents and ordered the release of said vessel upon the filing of a surety bond to guarantee payment of the amount assessed against petitioner.

While the case was pending trial, Republic Act No. 3079, amending Republic Act No. 1789, was enacted. Under the amendatory law, buyers of goods acquired from the Reparations Commission are exempt from the compensating tax. Section 20 thereof provides that any private party or end-user who had previously acquired reparations goods may apply for the renovation of his utilization contract with the Reparations Commission in order to avail himself of any provision of the amendatory Act which is favorable to him under the new law. According to petitioner, it applied for the renovation of its contract of conditional purchase and sale with the Reparations Commission which will most likely be approved as the approval thereof had been granted by the said Commission in all previous and similar applications. This was alleged in petitioner's supplemental petition, but the allegation was denied by respondents in their answer.

Subsequently, upon motion of petitioner, this Court postponed the hearing of the case set for May 4, 5, 8, 9 and 10, 1967 to the next calendar of the Court. The contending parties were, therefore, notified of the hearing of the case set for September 16, 17 and 18, 1968. But in spite thereof, petitioner failed to appear at the scheduled hearing thereby compelling respondents to submit the case for decision on the basis of the pleadings of the opposing parties and the records submitted to the Court. Thereafter, this Court gave the said parties ample time within which to file their respective memorandum in support of their stand.

The only issue to be resolved in this case is whether or not petitioner is liable for the payment of ₱481,401.00 as compensating tax on the vessel M/S "Dagohoy" which was acquired from the Reparations Commission sometime in October, 1960 but prior to the enactment of Republic Act No. 3079 which took effect on June 17, 1961.

Because the alleged renovation of petitioner's utilization contract with the Reparations Commission is the basis upon which the controversial legal issue may finally be resolved, this Court ordered that the case be reopened and reset for hearing to enable petitioner to present evidence conformably with the provisions of Section 20, Republic Act No. 3079, in relation to Section 14 thereof, both of which read as follows:

> SEC. 20. This Act shall take effect upon its approval, except that the amendment contained in Section seven hereof relating to the requirements for procurement orders including the requirement of down payment by private applicant end-users shall not apply to procurement orders already duly issued and verified at the time of the passage of this amendatory Act, and except further that the amendment contained in Section ten relating to the insurance of the reparations goods by the end-users upon delivery shall apply also to goods covered by contracts already entered into by the Commission and the end-user prior to the approval of this amendatory Act as well as goods already delivered to the end-user, and except further that the amendments contained in Sections eleven and twelve hereof relating to the terms of installment payments on capital goods disposed of to private parties, and the execution of a performance bond before delivery of reparations goods, shall not apply to contracts for the utilization of reparations goods already entered into by the Commission and the end-users prior to the approval of this amendatory Act: Provided, That any end-user may apply for the renovation of his utilization contract with the Commission in order to avail of any provision of this amendatory Act which is more favorable to an applicant end-user than has heretofore been granted in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act, and the Commission may agree to such renovation on condition that the end-user shall voluntarily assume all the new obligations provided for in this amendatory Act. (Underlining supplied.)

> SEC. 14. Exemption from tax.- All reparations goods obtained by the government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt from the payment of customs duties, compensating tax, consular fees and the special import tax.

Thereafter, notwithstanding repeated schedule of hearings, petitioner continuously failed to adduce evidence in support of its stand because of its consistent failure to appear in court.

Since petitioner asserted the existence and approval of a renovated utilization contract with the Reparations Commission, without offering proof in support of said allegation as required by Section 1, Rule 131 of the New Rules of Court, we are constrained to rule that petitioner is subject to the compensating tax imposed by Section 190 of the National Internal Revenue Code, in relation to Section 14 of Republic Act No. 1789 which provides,

> SEC. 14. Exemption from Tax.- All reparations goods obtained by the government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt only from the payment of customs duties, consular fees and the special import tax.

WHEREFORE, the decision of respondent Commissioner of Internal Revenue has to be, as it is hereby, affirmed. Accordingly, petitioner is ordered to pay respondent Commissioner of Internal Revenue or his duly authorized Collection Agent the amount of ₱481,401.00 as compensating tax. With costs against petitioner.

SO ORDERED.

Quezon City, June 3, 1970.

ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge