REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

U.S. TOBACCO CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 1973

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

11/18/80

D E C I S I O N

Petitioner U.S. Tobacco Corporation (now Quality Tobacco Corporation) has initiated this proceedings for the recovery of the amount of ₱17,022.33 as tobacco inspection fee for the month of September, 1967 collected pursuant to Revenue Memorandum Circular No. 30-67 dated August 22, 1967, through a petition for review of the decision of respondent Commissioner of Internal Revenue dated September 26, 1968.

There is no dispute about the facts, both parties having submitted a stipulation as follows: (pp. 41-43, CTA records.)

> 1. Petitioner is a corporation organized and existing under the laws of the Republic of the Philippines with principal office at 23rd and Chicago Streets, Port Area, Manila, and is engaged in the business of manufacturing and selling cigarettes. Respondent is the duly qualified and incumbent Commissioner of Internal Revenue.
>
> 2. On August 22, 1967, respondent issued Revenue Memorandum Circular No.

30-67 in implementation of Act No. 2613, as amended (Tobacco Inspection Law) requiring the payment of inspection fees every 20th of the month and which took effect on September 1, 1967. Said memorandum circular is made Annex "A" hereof.

3. In a letter dated September 13, 1967 of respondent to petitioner, Annex "B" hereof, the respondent advised the petitioner of the Circular, Annex A hereof, and required the payment of the inspection fees starting from October 20 and every 20th of the month thereafter.

4. That on October 20, 1967, the petitioner as required by the circular filed the corresponding application, Annex "C" hereof, for the month of September, 1967, and was assessed for tobacco inspection fees in the amount of ₱17,022.33, Annex "D" hereof, and petitioner on the same date paid the said amount of ₱17,022.33 per Official Receipt No. 1614901, dated October 20, 1967, Annex "E" hereof.

5. In a letter dated November 17, 1967, the petitioner through counsel, wrote the respondent questioning the imposition of the inspection fees and requesting for the refund of said payment of ₱17,022.33 giving reasons therefor and alleging among other things that the cigarettes therein covered were manufactured by the petitioner for domestic sale and, therefore, not subject to the inspection fees. Said letter is made Annex "F" hereof.

6. In another letter dated November 20, 1967, Annex "G" hereof, the petitioner through counsel again wrote the respondent that in the meantime that decision on the refund was pending, in lieu of actual payment, that petitioner be allowed to file a surety bond to guarantee the payment of said inspection fee.

7. In a letter dated November 28, 1967, the respondent approved the filing of a bond as requested in Annex "G". Said letter of respondent is made Annex "H" hereof.

8. On January 8, 1968, the petitioner filed with respondent Surety Bond No. 10510 of the Pioneer Insurance & Surety Co., in the amount of ₱208,973.28 representing the estimated amount of inspection fees for the period from November 20, 1967 to October 20, 1968. Said surety bond is made Annex "I" hereof and the covering letter as Annex "J".

9. In a letter of respondent dated September 26, 1968 to plaintiff's counsel, Annex "K" hereof, and received on October 22, 1968 respondent denied the request for refund.

10. In a letter dated November 16, 1968, the petitioner forwarded to respondent Surety Bond G(16) of the Workmen's Insurance Co., Inc., in the amount of ₱208,973.28 corresponding to the estimated inspection fees for the period November, 1968 to October, 1969. Said covering letter and surety bond are made Annexes "L" and "M" hereof.

11. That the parties reserve the right to present such additional evidence as they may desire.

After the parties have filed the foregoing partial stipulation of facts, this case was set for hearing for several times for the litigants to present such additional evidence as they may desire, but for some reason or another, the trials were always postponed or cancelled until the case was submitted for decision upon the above agreed statement of facts.

Petitioner's contention is, in substance, that Act No. 2613, otherwise known as the Tobacco Inspection Law, as amended by Republic Act No. 31, merely empowers the Commissioner (formerly Collector) of Internal Revenue to inspect only tobacco for domestic sale or for factory use and manufacturers of tobacco for export. Revenue Memorandum Circular No. 30-67 dated August 22, 1967, promulgated as implementing order thereto, insofar as it requires the inspection of manufactured cigarettes for sale and the collection of inspection fees thereon, is therefore invalid. Hence, the amount of ₱17,022.33 collected by respondent as tobacco inspection fee on 56,741,050 sticks of cigarettes manufactured by petitioner for domestic sale in the month of September 1967 is refundable.

Respondent Commissioner of Internal Revenue, on the other hand, contends 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, comprehend manufactured tobacco such as cigars and cigarettes for domestic sale and consumption. Consequently, cigarettes for domestic sale covered by Revenue Memorandum Circular No. 30.67 are subject to inspection and payment of the corresponding tobacco inspection fees at the rate provided for in Section 302 of the then in force National

Internal Revenue Code. The amount of ₱17,022.33, according to respondent, was therefore collected in accordance with law, hence, not refundable.

The issue as presented by the parties is whether or not Revenue Memorandum Circular No. 30.67 is null and void. And the resolution of this question depends on whether or not the terms "tobacco" and "tobacco for domestic sale" found in Section 6(c) of Act No. 2613, otherwise known as the Tobacco Inspection Law, as amended by Republic Act No. 31, include manufactured tobacco products such as cigars and cigarettes.

Four-square with the case at bar on this point, by reason of the exact similarity of the facts, the law involved and the issue litigated, as well as the close identity of the parties, is CTA Case No. 2031 of this Court, entitled "Alhambra Industries, Inc., La Flor de la Isabela, Incorporada, and Columbia Tobacco Company, Inc. vs. Hon. Misael P. Vera, in his capacity as Commissioner of Internal Revenue", November 28, 1970.

In that case, this Court unequivocally ruled that the word "tobacco" and the phrase "tobacco for domestic sale" found in Section 6(c) of Act No. 2013, as amended by Republic Act No. 31, include manufactured tobacco such as cigars and cigarettes. The collection therefore of tobacco inspection fees pursuant to

Memorandum Circular No. 30.67 dated August 22, 1967 on the cigars and cigarettes removed by the petitioners therein from their factories for domestic sale is legal and justified. Because of its controlling effects on the instant case, and the possibility of appeal, we will quote at length from the decision.

> 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 tobacco 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 manufactured products from tobacco leaves; 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(c) 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
>
> (o) "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' restictive 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 quality 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 origin.
>
> "(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(c) 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 petitioner's contruction 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(c) 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(c) 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 included 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.

We find no cogent and valid reason to modify, much less depart from the conclusion reached in Alhambra Industries, as expressed in the above-quoted opinion of this Court there, and the same should resolve the identical problem now brought before us in this appeal. Respondent's Revenue Memorandum Circular No. 30-67-

dated August 22, 1967 is therefore legal and valid, and the collection of the tobacco inspection fee in question pursuant thereto is in accordance with law. Accordingly, the decision of respondent Commissioner of Internal Revenue dated September 26, 1968 denying the request for refund of petitioner U.S. Tobacco Corporation (now Quality Tobacco Corporation) of the amount of ₱17,022.33 as inspection fee paid on October 20, 1967 has to be denied.

WHEREFORE, the petition for review filed in the above-entitled case is hereby dismissed at petitioner's costs.

SO ORDERED.

Quezon City, Metro Manila, November 18, 1980.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge