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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PLANTERS PRODUCTS, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 4002

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

8/31

D E C I S I O N

The case is about an availment by a local fertilizer manufacturer of the tax exemption privilege under Presidential Decree No. 1144, otherwise entitled, "Creating the Fertilizer and Pesticide Authority and Abolishing the Fertilizer Industry Authority" which particular provision reads:

> Sec. 6. Powers and Functions.- The FPA shall have jurisdiction, on overall existing handlers of pesticides, fertilizers and other agricultural chemical inputs. The FPA shall have the following powers and functions:
>
> xxx xxx xxx

> II. Fertilizers
>
> xxx xxx xxx
>
> 5. To import fertilizer and fertilizer inputs exempt from customs duties, compensating and sales taxes and all other taxes, and to purchase naptha locally free from specific taxes and the corresponding duty on the imported crude, and to sell or convey such fertilizer or fertilizer input to any individual, association, or corporation likewise exempt from the payment of customs duties and all other taxes.
>
> xxx xxx xxx

The Ministry of Finance had the same construed, thus -

> From the above quoted provision of law, it is very evident that the purpose of the exemption is to provide the much needed incentive to local fertilizer manufacturers. Fertilizer is a vital input to all government's food production program. Cognizant with the underlying purpose of Section 6 (II-5) as above stated, this Ministry believes that local fertilizer manufacturers are exempt from the payment of 10% manufacturer's tax imposed by the National Internal Revenue Code. This conclusion is supported by the language of the law granting the tax exemption which in referring to the exemption uses the broad and all encompassing phrase "customs duties and all other taxes".
>
> With respect to the local purchase of refinery gas which is a substitute to naptha, the same is exempted from the payment of specific tax. Likewise, diesel oil and industrial fuel oil which

> are basic inputs to the manufacture of fertilizer are exempt from customs duties and taxes pursuant to Section 6 (II-5) of Presidential Decree No. 1144. (Letter of Acting Minister of Finance Alfredo Pio De Roda, Jr. to Mr. Alfredo Montelibano, President of Planters Products, Inc., April 12, 1983.)

The respondent had his own ruling of March 8, 1984 in a letter addressed to the Fertilizer & Pesticide Authority authorizing the purchase of fertilizer inputs for the account of Planters Products, Inc., free from the payment of specific tax in reiteration of the Ministry of Finance' ruling, to wit:

> In view thereof, your request is hereby granted. Accordingly, you may withdraw from Petrophil Corporation the above-mentioned quantities of refinery gas, industrial diesel oil and industrial fuel oil, free from the payment of the specific tax imposed in Section 153 (c) of the Tax Code of 1977, as amended. However, the conditions set forth in Revenue Regulations No. 13-77 regarding the recording and reporting of deliveries of petroleum products to tax exempt entities should be complied with. (Exhs. D-2 and D-3)

The records show that during the period, January to September, 1984, petitioner bought from Petrophil Corporation, 10,871,803 liters of refinery or process gas, 8,809,933 liters of industrial fuel oil and 3,340,851 liters of industrial diesel oil as basic inputs in the manufacture of fertilizer, and was charged and paid the amounts of P326,154.09, P1,357,791.39 and P1,068,434.64, as specific taxes due thereon, respectively. On the basis of the ruling of the Ministry of Finance, petitioner filed on March 22, 1985 a claim for the refund/tax credit of the specific taxes in the total amount of P2,752,380.12 it paid.

Respondent Commissioner of Internal Revenue failed to act on petitioner's claim, hence, this petition.

All told the material facts are relatively simple and so is the issue under resolve but the parties seem trying to get the better of each other over by a quibble as to the proper import and scope of the tax exemption proviso in PD 1144.

Taking exception, respondent avers that the tax exemption under Section 6 (11-5) of Presidential Decree No. 1144, *supra*, refers to the transactions of the Fertilizer & Pesticide Authority in importing fertilizer inputs, purchasing naptha locally or imported crude and selling or conveying fertilizer or fertilizer inputs to any individual, association or corporation. Nothing is said about exempting local fertilizer manufacturers from payment of specific taxes under the Tax Code. Furthermore, Presidential Decree No. 1144 does not speak of granting incentives to local manufacturers.

Be that as it may, We find nothing ambiguous nor obscure in the language the statutory proscription as made more positive by the administrative rulings insofar as the same is brought to bear upon the circumstances of the petitioner. Far be it from a theoretical gobbledygook the rulings above-quoted establish the appropriate legal moorings and lend settling eloquence to the precise issue in the case at bar. Respondent should not further expect the unexpected towards flirting to a volte-face ruling.

In a case involving the same petitioner and touching on the similar if not the same issue, We held, *inter alia,* that "As a result, Section 6 (11-5) alludes to the existence of individuals, associations or corporations granted the privilege and functions of FPA, speaks in this wise: 'To import fertilizer and fertilizer inputs exempt from customs duties, compensating and sales taxes and all other taxes and to purchase naptha locally free from specific taxes and the corresponding duty on imported crude, and to sell or convey such fertilizer or fertilizer input to any individual, association or corporation likewise exempt from the payment of customs duties and all other taxes'". We do not think any different conclusion ought be reached in the case at bar.

And, the records make it clear that the specific taxes sought to be refunded were paid by the petitioner, viz.: Exhibits A, A-1 to A-6 (specific taxes on refinery gas, summarized in Exhibit A-7); Exhibits B, B-1 to B-35 (specific taxes on industrial fuel oil, summarized in Exhibit B-54); and Exhibits C, C-1 to C-18 (specific taxes on industrial diesel oil, summarized in Exhibit C-19).

We conclude and this is all we need decide that petitioner has fared consistent with the requirements of law and regulations in establishing its legal right to the claim.

WHEREFORE, respondent is hereby ordered to grant the refund/tax credit to the petitioner without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, August 31, 1990.

ALEX Z. REYES
Associate Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

CERTIFICATION

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

CONSTANTE C. ROAQUIN
Associate Judge
Court of Tax Appeals