REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

(30)

MANILA ELECTRIC COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 2487

ACTING COMMISSIONER OF CUSTOMS,
Respondent.

8/16/77

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D E C I S I O N

Appeal from the decision of respondent Commissioner of Customs:

1. Affirming the decision of the Collector of Customs of Manila in Manila Protests Nos. 1086, 1087, 1101, 1102, 1103, 1106, 1111, 1112, 1113, 1114, 1115, 1116, 1154, 1156, 1158, 1159 and 1160 filed by petitioner Manila Electric Company against the rates of exchange used, and inclusion of margin fee, in the assessment and collection of customs duties and taxes on its importations of various machinery, equipment, accessories, and parts used in the business under its franchise; and

2. Applying petitioner's tax credits obtained from past and different importations to the assessments subject of this appeal.

During the hearing of this case on November 7, 1975, respondent objected to the proposed stipulation of facts of petitioner on the ground that the material and relevant facts alleged by the latter in its petition for review have already been admitted by him in his answer. No trial on the merits was therefore conducted by the Court as the parties, after Exhibit "A" of petitioner was admitted, submitted this case for decision on the basis of the pleadings and of the records of the Bureau of Customs. They were however allowed to file their respective memorandum in support of their positions.

As alleged in the petition for review and admitted in the answer:

> 1. Petitioner is a corporation duly organized and existing under the laws of the Philippines, with principal offices at the Lopez Building, Ortigas Avenue, Pasig, Rizal; respondent is the incumbent and acting Commissioner of Customs and may be served with summons at the Bureau of Customs, Port Area, Manila.

> 2. Petitioner is the grantee of a legislative franchise to build, maintain and operate in the City of Manila and its suburbs, a plant for generating, distributing and selling electric light, heat and power under Act No. 484, as implemented by Ordinance No. 44 of the City of Manila and extended by Republic Act No. 150 and further extended by Republic Act No. 4159; to meet the ever increasing demand for electric light, heat and power of the consuming public, petitioner continuously constructs generating units or power plants; the machinery, equipment, accessories, spare parts and materials for these units or plants are being imported from abroad and the costs thereof paid in U.S. dollars.

> 3. On various dates material to this case, petitioner imported from abroad machinery, equipment, accessories, spare parts and materials for use in the construction of additional generating units, designated as Rockwell Station Units Nos. RS6 and RS7; to finance the dollar costs thereof, petitioner contracted for direct US dollar loans on November 26, 1958, and on April 30, 1960 with the Export-Import Bank of Washington (EXIMBANK),

which loan agreements were previously approved by the Central Bank of the Philippines on August 29, 1958, and on November 29, 1959 and designated as Eximbank Credit Nos. 1022-A and 1022-0, respectively.

4. To finance the dollar costs of another generating unit, designated as Rockwell Station Unit No. RS8, petitioner contracted for a direct U.S. dollar loan with a Syndicate of Banks in the United States, with the First National City Bank as Agent.

5. In the computation of the tax base for purposes of assessment of customs duties and taxes on the imported articles mentioned in paragraphs 3 and 4 above, the values thereof quoted in U.S. dollars were converted to Philippine pesos at various rates of exchange to $1.00 plus margin fee, other than the official parity rate of ₱2.00 to $1.00, pursuant to Department (of Finance) Order No. 22 dated May 19, 1960, implementing the provisions of Section 204 of the Tariff and Customs Code in relation to R.A. No. 2609 which authorizes the Central Bank to establish a margin fee of banks selling rates of foreign exchange; and, in the final liquidation of the customs entries involved, the Collector of Customs made additional assessments for alleged short duties, taxes and other charges on petitioner's importations arising from the conversion of the dollar values of said importations to various rates of exchange and the inclusion of margin fee aforesaid.

6. Within the time allowed by law, petitioner filed formal protests with the Collector of Customs, Port of Manila, against the rates of exchange used in the assessment and collection of duties and taxes on the importations hereinbefore mentioned, seventeen (17) protests were made representative cases out of the numerous other protests filed by petitioner which were consolidated for joint resolution, to simplify the proceedings and to expedite the disposition of these other protest cases pending hearing, as all these protests were filed against the conversion rates used and inclusion of the margin fee aforestated.

7. Petitioner likewise protested the application by the Collector of Customs of petitioner's established tax credits to these protested cases, which tax credits were approved in favor of petitioner in connection with past importations and which have no relation whatsoever to the importations subject of these protested cases; material facts with respect to these protests, the entries and shipments involved, its dollar values, various rates of exchange used and inclusion of margin fees, including the overpayment claimed totalling ₱91,714.00 in customs duties and taxes involved in the seventeen (17) representative cases abovementioned are shown in a schedule herewith attached as Annex "A" and made part of this petition.

8. On February 27, 1969, petitioner received a copy of the decision of the Collector of Customs dated November 28, 1968, denying the aforementioned protest cases (Manila Protests Nos. 1101, 1103, 1113, 1114, 1116, 1158, 1159, 1086, 1087, 1102, 1106, 1111, 1112, 1115, 1154, 1156, and 1160).

9. Within the time allowed by law, petitioner appealed the decision of the Collector of Customs to respondent, which appeal was docketed as Customs Case No. 946, and, on January 23, 1973, petitioner received respondent's decision in said Customs Case No. 946 dated January 12, 1973, affirming the decision of the Collector of Customs copy of respondent's decision is herewith attached as Annex "B".

Petitioner protested against the assessment and collection of additional customs duties and taxes, upon the ground that "no foreign exchange operations or transactions were involved in all these protest cases and same were expressly exempted by the Central Bank from the margin fee; such being the case, the dollar values thereof should be converted to pesos at the official rate of ₱2.00 to $1.00 and said margin fee should not be added to form part of the conversion rate." (Paragraph 10, Petition For Review, but denied under paragraph 2 of the Answer as being mere arguments and unwarranted conclusions of fact and law.) The application by the Bureau of Customs of petitioner's tax credits for past and different importations to the additional assessments was likewise protested by petitioner since "a notice of assessment or claim for taxes does not partake the nature of debt, demand, contract or judgment as would be allowed set off; neither are they proper subject of recoupment since they do not arise from the same contract or transactions sued on." (Paragraph 11, Petition For Review, but likewise denied under paragraph 2 of the Answer as being mere arguments and unwarranted conclusions of fact and law.)

In converting the value of the importations covered by this case from U.S. dollars to Philippine pesos at the current market rates of exchange or values then prevailing at the time of the respective arrival of the importations, respondent relies mainly on Section 204 of the Tariff and Customs Code which provides that: "For the assessment and collection of import duty upon imported articles and for other purposes, the value and prices thereof quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange or value specified or published, from time to time, by the Central Bank of the Philippines." And in order to determine the tax base for the purpose of computing the correct duties and taxes on the shipments involved in this case, respondent also added to the peso value of said shipments the 25% margin fee as prescribed by Republic Act No. 2609.

Petitioner now poses the following issues:

1. Whether or not the dollar values of the imported articles should be converted to pesos at the official (parity) rate of ₱2.00 to $1.00;

2. Whether or not the margin fee should be included in the tax base of the imported articles and should form part of the conversion rate;

3. Whether or not respondent's application of petitioner's tax credits to the additional assessments protested against is legal or proper.

Indeed, "due to the pressure on the international reserve of the country and the threat to economic stability," as well as "the rate of exchange crisis", the Monetary Board availed of the emergency power granted by Section 74 of Republic Act No. 265, otherwise known as the Central Bank Act, and issued, on December 9, 1949, Circular No. 20 restricting "sales of exchange by the Central Bank", subjecting "all transactions in gold and foreign exchange to licensing" by the same, and requiring the surrender thereto of 100%

of all foreign exchange receipts at the official parity rate of ₱2.00 to a U.S. dollar. (See Commissioner of Internal Revenue vs. Royal Interocean Lines, No. L-26806, July 30, 1970, 34 SCRA 9.) Section 2 of Circular No. 22 of the Central Bank, dated May 21, 1953, provided, inter alia:

> "The following are foreign exchange transactions and as required by Central Bank Circular No. 20 are subject to prior licensing by or on behalf of the Central Bank:
>
> "(a) Transactions in, or with respect to, assets situated abroad belonging to Philippine residents, whether or not such assets are held through, in or with Philippine Banks or banking institutions;
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> x x x x x
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> "(c) Any transaction by which a resident incurs, assumes or acknowledges a debt, or guarantees or gives security for a debt payable to a non-resident either in Philippine pesos or foreign currency;
>
> "(d) Any act by which a resident debits or credits the account of a non-resident in any currency or the account of a resident in foreign currency;
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> xx xx xx
>
> "(m) Any other transactions involving international financial implications."

As long as the Central Bank of the Philippines subjects all transactions in gold and foreign exchange to licensing in accordance with the provisions of Section 74 of Republic Act No. 265, the Central Bank, in respect of all sales of foreign exchange by the said Bank and its agent banks, was authorized on July 16, 1959 under Republic Act No. 2609 to establish a uniform margin of not more than forty per cent over the banks' selling rates stipulated by the Monetary Board under Section 79 of Republic Act No. 265. The policy incorporated in Circular No. 20 and implemented in subsequent circulars, was also relaxed with the enactment of Republic Act No. 2609, which directed the monetary authorities to take steps for the adoption of a four-year program of gradual decontrol, during which the Monetary Board, with the approval of the President, could and did fix the conversion rate of the Philippine peso to the U.S. dollar at a ratio other than that prescribed in Section 48 of Republic Act No. 265. During the period involved in the instant case, the free market conversion rate ranged from ₱2.00 to ₱4.00 to a U.S. dollar, at which rates the values and prices of the various importations of petitioner quoted in U.S. dollars were converted into Philippine pesos, including the margin then fixed at 25%, for the purpose of the computation of the tax base in the assessment and collection of customs duties and taxes due on the shipments.

The transactions from which the different importations of petitioner arose involved the following:

1. To finance the U.S. dollar costs of machinery, accessories, spare parts and materials for use in the construction of two (2) generating units, designed as Rockwell Station Unit Nos. RS6 and RS7 in Makati, Rizal, petitioner contracted on November 26, 1958 and April 30, 1960 for direct U.S. dollar loan with the Export-Import Bank of Washington (EXIMBANK), designated as EXIMBANK Credit Nos. 1022-A and 1022-O. The cost, insurance and freight (CIF) of the shipments covered by Import Entry Nos. 51136-60 (Protest No. 1113), 96470-60 (Protest No. 1114), 19353-61 (Protest No. 1159), and 06007-61 (Protest No. 1160) were paid from the loans obtained from EXIMBANK. (P. 67-68, CTA records)

2. Similarly, to finance the U.S. dollar costs of an additional 60,000 KW Turbo-generating unit, designated as Rockwell Station Unit No. RS8, petitioner entered on November 1, 1962 into credit agreement with the Syndicate of United States Banks, with First National City Bank of New York as agent, under which agreement, the Syndicate of U.S. Banks will extend a credit line of not exceeding $9,400,000.00, the

proceeds of which are to be applied in financing the purchase abroad, equipment, machinery and accessories of RS8. Advances under said credit agreement are to be re-paid by petitioner in fourteen (14) semi-annual installments, commencing from March 31, 1974. The cost, insurance and freight (CIF) of shipments covered by Import Entry Nos. 86477-63 (Protest No. 1101) and 58993-63 (Protest No. 1116) were paid from the credit obtained from the Syndicate of Banks in the United States. (P. 68, CTA records.)

3. As to the importations of petitioner covered by Import Entry Nos. 59288-60 (Protest No. 1086), 59388-60 (Protest No. 1087), 52287-60 (Protest No. 1102), 97879-60 (Protest No. 1103), 43951-60 (Protest No. 1106), 44389-60 (Protest No. 1111), 46100-60 (Protest No. 1112), 53945-60 (Protest No. 1115), 40888-60 (Protest No. 1154), 15380-61 (Protest No. 1156) and 12244-61 (Protest No. 1158), the payments for the cost of articles involved were made through the remittance of foreign exchange purchased in the Philippines and remitted to the supplier abroad, prior to or at the time of importations. (P. 68, CTA records).

With respect to Transactions Nos. 1 and 2, it might be safe to say that in line with the ordinary course of business, adherence to which is presumed, in the absence of proof to the contrary ---- upon approval and grant of the U.S. dollar loans of petitioner by the Export-Import Bank of Washington (EXIMBANK Credit Nos. 1022-A and 1022-O) and the Syndicate of

Banks in the United States, with the First National City Bank as agent, the amounts or proceeds of the same had been credited to the account of, or set apart for, petitioner and which could be drawn upon by it, and in fact used by petitioner in financing the U.S. dollar costs of the machinery, equipment, accessories, spare parts and materials imported for use in the construction of its additional generating units designated as Rockwell Station Nos. RS6, RS7 and RS8. And that, upon notice of the payment of such purchases and grant of said loans to petitioner in the Philippines, the latter in turn must have credited the accounts of the Export-Import Bank of Washington and the Syndicate of Banks in the United States. Such processes of bookkeeping and accounting are, for all legal intents and purposes, equivalent to delivery, receipt or remittance, in much the same way as petitioner would have received the dollar loans directly from the Export-Import Bank in Washington and Syndicate of Banks in the United States. Incidentally, this is in accord with established practice especially among banks the world over, which seldom bring or send money physically from one country to another, but generally, resort to bills, notes or other conventional forms of transacting business in the manner they may deem most practical and suitable to their respective interests. (See Commissioner of Internal Revenue vs. Royal Interocean Lines, No. L-26806, July 30, 1970, 34 SCRA 9)

Although, as correctly stated by respondent, there was no showing at the time of importations of the articles subject of Manila Protests Nos. 1113, 1114, 1159, 1160, 1116 and 1101 that remittances in terms of U.S. dollars were involved, yet, the same are to be actually remitted in accordance with the terms and conditions stated in the credit agreements entered into by petitioner with the Export-Import Bank of Washington and the Syndicate of Banks in the United States. Needless to say, the remittances in terms of U.S. dollars by petitioner from the Philippines, which necessarily must involve the purchase of foreign exchange in the Philippines, should be credited in its books of accounts and in turn debited by Export-Import Bank of Washington and the Syndicate of Banks in the United States against the U.S. dollar loans of petitioner, and, hence deducted from said loans.

In short, the incurrence of petitioner of the U.S. dollar loans with the Export-Import Bank of Washington and the Syndicate of Banks in the United States, the proceeds of which were used to finance the dollar costs of its importations mentioned in Transactions Nos. 1 and 2, above, and the remittances in terms of U.S. dollars from the Philippines of the payments of such loans not only involved the purchase and sale of foreign exchange in the Philippines but also are foreign exchange transactions under Central Bank Circular No. 20. They are not only transactions by which a resident incurred a debt payable to a non-resident either in Philippine pesos or foreign currency, or acts by which a resident debits or credits the account of a non-resident in any currency, but transactions involving international financial implications. Consequently, in the computation of the tax-base for the purpose of the assessment and collection of customs duties and taxes due on the importations of the articles purchased from the dollar proceeds of the loans, the values of said articles quoted in U.S. dollars should be converted into Philippine pesos at the various rates of exchange prevailing at the time of importations, including the margin fee, pursuant to the provisions of Section 204 of the Tariff and Customs Code in relation to Republic Act No. 2609 and implemented by Finance Department No. 22.

Petitioner submits, however, that with respect to its importations the cost, insurance and freight

(CIF) of which were paid from the proceeds of the dollar loans with the Export-Import Bank of Washington (Eximbank Credit Nos. 1022-A and 1022-O), involved in Transaction No. 1, above, and subject of Manila Protest No. 1113 (Entry No. 51136-60), Manila Protest No. 1114 (Entry No. 58993-63), Manila Protest No. 1159 (Entry No. 19358-01), and Manila Protest No. 1162 (Entry No. 06007-61), the value or prices thereof quoted in U.S. dollars should be converted at the parity rate of ₱2.00 to a U.S. dollar and the margin fee excluded, for the purpose of determining the tax base for the computation of the customs duties and taxes. According to petitioner, its credit agreements with the Export-Import Bank of Washington are special financing items within the meaning of Central Bank Circular No. 117 dated November 28, 1960, and fall under the category of governmental obligations to Export-Import Bank per Memorandum to Authorized Agent Bank MAAB-ECD No. 28 dated January 3, 1961. (Exh. "O", p. 212, Folder II, Customs Records.) The exemption of the importations into the Philippines of the machinery, equipment, materials, supplies and related costs from the margin fee is allegedly evidenced by the Certificate of Exemption issued by the Exemption Committee of the Central Bank of the Philippines. (Exh. "A", see also Exhs. "M",

& "N", Protests, pp. 215 & 216, Folder II, Customs Records.)

While it is true that in a letter dated January 30, 1961 of the Special Assistant to the Governor of the Central Bank to petitioner (Exh. "O", Protests, *supra*), it is stated therein that the dollar loans with the Export-Import Bank (Eximbank Direct Loan Credit No. 1022-A- $9,900,000 and Credit No. 1022-C.- $9,780,000) are "Special Financing Items" within the meaning of Central Bank Circular No. 117, dated November 28, 1960, and falling under the category of "Governmental Obligations to the Export-Import Bank" per MAAB ECD No. 28 dated January 3, 1961, there is nothing therein which states, or even gives a hint, that the values or prices of the imported articles purchased from said loans quoted in U.S. dollars should be converted at the parity rate of ₱2.00 to a U.S. dollar and the margin fee excluded for the purpose of determining the tax base in the computation of the duties and taxes. We cannot infer and imply that the prices of the imported articles quoted in U.S. dollars should be converted at the parity rate of ₱2.00 to a U.S. dollar and the margin fee excluded, from a mere letter of a special assistant to the Governor of the Central Bank, specially so when nothing is said to this effect and the manner taxes and duties are assessed is primarily a statutory function of the Bureau of Customs governed by the Tariff and Customs Code. To hold otherwise would in effect arrogate upon the Central Bank functions which are not given to it and, therefore, an encroachment of the authority granted by law to the Bureau of Customs.

The records show that petitioner in its letter dated July 29, 1960 requested the Central Bank that its agent bank be authorized to append to the corresponding release certificate for each partial shipment under its Export-Import Bank loan of $9,780,000 (Credit No. 1022-O), a certification to the effect that the shipment does not involve the sale of foreign exchange and is not subject to the margin under the provisions of Republic Act No. 2609 and the Implementing Central Bank regulations. However, in reply thereto, the Special Assistant to the Governor of the Central Bank and Chairman of the Exemption Committee simply advised petitioner that the partial shipments under each release certificate are not subject to the 25% margin prescribed in Central Bank Circular No. 95, implementing the provisions of Republic Act No. 2609, but the said <u>25% margin shall apply to remittances in payment of the said loan</u>. (Exh. "M", Protest, p. 216, Folder II, Customs Records). Absolutely nothing had been said, even only indirectly, that the value or prices of the imported articles purchased from said loan quoted in U.S. dollars should be converted at the parity rate of ₱2.00 to a U.S. dollar and the margin fee excluded for the purpose of determining the tax base for the computation of the duties and taxes. It should be noted that the exemption from margin fee refers only to the partial shipments under each release certificate, but does not apply for the purpose of excluding the margin in the assessment and collection of import duties and taxes on the imported articles which is governed by the provision of Section 204 of the Tariff and Customs Code. Otherwise, a mere letter of a special assistant to the governor of the Central Bank would in effect amend a provision of law.

Similarly, it appears that in its letter of July 29, 1960, petitioner requested the Central Bank that its agent bank be authorized to append to the corresponding release certificate for each partial shipment under its Export-Import Bank loan of $9,900,000 (Credit No. 1022-A), a certification to the effect that the shipment does not involve the sale of foreign exchange and is not subject to the margin under the provisions of Republic Act No. 2609 and the implementing Central Bank regulations. Likewise, in reply thereto, the Special Assistant to the Governor of the Central Bank and Chairman of the Exemption Committee, without any hint as to whether the shipment does not involve the sale of foreign exchange, simply advised petitioner that the said partial shipments of equipment under each release certificate are not subject to the 25% margin prescribed in Central Bank Circular 95, implementing the provisions of Republic Act No. 2609. However, to avail of the exempting provisions of Section 3 of Republic Act No. 2609 on the remittances of the amortizations and interests on the said loan, petitioner should still file for each remittance an application for exemption from payment of the margin under EXM Form No. 2, accompanied by certain documents mentioned therein. (Exh. "A", p. 48, CTA Records). Again, nothing was said or hinted therein that the value or prices of the imported articles purchased from said loan quoted in U.S. dollars should be converted at the parity rate of ₱2.00 to a U.S. dollar and the margin fee excluded for the purpose of determining the tax base in the computation of the duties and taxes.

If it had been the intent of the Central Bank to give petitioner herein preferential treatment by certifying that its importations under its Export-Import Bank loans do not involve the sale of foreign exchange, or do not entail foreign exchange transactions, and are not subject to the margin under the provisions of Republic Act No. 2609, the monetary authorities, if they have the power to do so, could have easily granted the certification requested by petitioner in its letter of July 29, 1960. As we view this problem, since these transactions of petitioner involved not only the purchase and sale of foreign exchange in the Philippines but also are foreign exchange transactions, in the computation of the tax-base for the purpose of the assessment and collection of duties and taxes due on the importations of the articles purchased from the dollar proceeds of the loans, the values of said articles quoted in U.S. dollars should be converted into Philippine pesos at the various rates of exchange prevailing at the time of importations, including the margin fee. We cannot ignore the legal provision expressed in Section 602(a) of the Tariff and Customs Code that the primary duty of assessing and collecting the lawful revenues from imported articles is vested in the Bureau of Customs although, under Section 204 of the same Code, "for the assessment and collection of import duty upon imported articles and for other purposes, the value and prices thereof quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange or value specified or published, from time to time, by the Central Bank of the Philippines." And in converting the value of importation from dollars to pesos for purposes of determining the customs duties and taxes due on such importation, the 25% margin fee should be added to the peso value, for the said 25% margin fee is a part of the rate of exchange. (Caltex (Philippines) Inc. vs. Acting Commissioner of Customs, No. L-24619, February 26, 1968, 22 SCRA 779).

Similarly situated are petitioner's importations financed and paid from the proceeds of the loan with the Syndicate of United States Banks, described in Transaction No. 2, above, and covered by Import Entry Nos. 86477-63 (Manila Protest No. 1101) and 58993-63 (Manila Protest No. 1116). If in the computation of the tax base for the purpose of assessment and collection of customs duties and taxes due on the importations of petitioner under its afore-mentioned Export-Import Bank loans, the values of said shipments quoted in U.S. dollars should be converted into Philippine pesos at various rates of exchange prevailing at the respective time of importation, including the 25% margin fee, pursuant to the provisions of Section 204 of the Tariff and Customs Code in relation to Republic Act No. 2609, with more reason should the dollar values of the shipments of petitioner under its Syndicate of United States Banks loan be converted at free market rates prevailing at the time of importation and the

25% margin included as part of the tax base for purposes of the duties and taxes. The credit agreement between petitioner and the Syndicate of United States Banks loan is not a special financing item within the meaning of Central Bank Circular No. 117 dated November 28, 1960, and neither does it fall under the category of governmental obligations per Memorandum to Authorized Agent Bank MAAB-ECD No. 28 dated January 3, 1961.

In both instances, respondent's decision affirming the denial by the Collector of Customs of Manila of Protests Nos. 1113, 1114, 1159 and 1160 involving petitioner's shipments under the Export-Import Bank loans, including protests Nos. 1101 and 1116 pertaining to its importations financed from the proceeds of the loan with the Syndicate of United States Banks, should therefore be sustained.

Coming to Transaction No. 3, petitioner admits "that where importation involves the purchase and sale of foreign exchange in the Philippines, either that the cost of the imported articles are paid with foreign exchange in the Philippines and remitted abroad and/or letters of credit opened in the Philippines, prior to or at the time of importation, the rates of exchange other than the rate of ₱2.00 to US $ 1.00, plus the margin fee, shall be used as tax base for computing customs duties, special import tax, and advanced sales tax or compensating tax on said importation." (P. 56, CTA records). Consequently, since the costs of the articles involved in petitioner's importations subject of its Manila Protests Nos. 1086, 1087, 1102, 1103, 1106, 1111, 1112, 1115, 1154, 1156, and 1158 were paid through letters of credit opened and/or through remittances of foreign exchange purchased in the Philippines and remitted to the suppliers abroad prior to or at the time of importation (p. 59, CTA records; See also Stipulation of Facts dated April 12, 1966 submitted by the parties at the Bureau of Customs, pp. 334-360, Customs records), in the computation of the tax-base for the purpose of assessment and collection of customs duties and taxes due thereon, the values of said shipments quoted in U.S. dollars should be converted into Philippine pesos at the various rates of exchange prevailing at the respective time of importation, including the 25% margin fee, pursuant to the provisions of Section 204 of the Tariff and Customs Code in relation to Republic Act No. 2609 and implemented by Finance Department Order No. 2. No mistake was therefore committed by respondent in denying Manila Protests Nos. 1086, 1087, 1102, 1103, 1106, 1111, 1112, 1115, 1154, 1156 and 1158.

Petitioner next contends that the application by the Collector of Customs of Manila of its tax credit certificate issued in its favor in connection with different importations for prior years and which have no relation whatsoever to the additional duties and taxes due on the shipments covered by this case is illegal and improper. As a result of the short duties and taxes found upon liquidation of the entries involved in this case, the Collector of Customs directed petitioner herein to pay said additional customs duties and taxes. However, petitioner protested against the imposition of additional duties and taxes without paying first the assessment as required by Section 2308 of the Tariff and Customs Code which provides that no protest shall be considered unless payment of the amount due after final liquidation has first been made.

On this point, respondent correctly argues that the action of the Collector of Customs in applying petitioner's standing tax credit to the payment of the additional duties and taxes on its shipments is legal, and in fact redounded to its benefit, for had it not been for the action of the Collector, the protests of petitioner could not have been given due course for violation of Section 2308 of the Tariff and Customs Code. The additional assessments made by the Collector of Customs on petitioner's importations constituted personal debts due from it to the government which can be discharged only by payment in full of all duties, taxes, fees and other charges attaching on importation, and the same are demandable upon final determination by the Bureau of Customs, pursuant to the provisions of Section 1204 of the Tariff and Customs Code. While it is true that the assessments for additional duties and taxes to which petitioner's tax credits were applied were still subject of protests, it is equally true that petitioner's protests would not have been considered unless payment of the amount due after final liquidation by the Collector of Customs would have first been made.

Accordingly, no error was committed by respondent in sustaining the action of the Collector of Customs of Manila in applying petitioner's tax credit certificate to the payment of additional duties and taxes due on its shipments covered by this case as found by the Collector upon liquidation of the entries.

WHEREFORE, we find no merit in the Petition for Review and we hereby AFFIRM the decision appealed from. With cost against petitioner.

SO ORDERED.

Quezon City, August 16, 1977.

Amante Filler
AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge