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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PAPER INDUSTRIES CORPORATION
OF THE PHILIPPINES,
Petitioner,

- versus - C.T.A. CASE NO. 3841

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
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D E C I S I O N

This is a petition to review the decision of respondent Commissioner of Internal Revenue, holding petitioner Paper Industries Corporation of the Philippines liable for the amount of ₱7,619,381.24 representing deficiency forest charges, forestry information fund, and forpride fund, inclusive of surcharges for the taxable year 1975.

Petitioner is a domestic corporation engaged in the business of producing logs and manufacturing wood products and pulp and paper products, all for local and export sales, and in connection therewith, supplies itself from its own forest concessions in Surigao del Sur augmented by purchases from surrounding tree-farms. (Petition for review, p. 1, CTA records.)

By virtue of Letter of Authority No. 00944 NA dated September 3, 1976, respondent's examiners conducted an examination of the income and business tax liabilities of petitioner for 1975. Based on the finding of said examiners that for purposes of computing forest charges, petitioner did not manifest a gross volume of 446,557.14 cubic meters of logs, respondent assessed and demanded from petitioner on April 10, 1980 the sum of ₱7,619,381.24 as deficiency forest charges, inclusive of surcharges, computed as follows: (Exh. "D", p. 124, BIR records.)

Regular forest charges on 446,557.14 cubic meters of 1st group timber at ₱3.50 per cubic meter	₱1,562,950.00	
300% surcharge for cutting without license..	4,688,850.00	
25% surcharge for transporting without invoice	390,737.50	
25% surcharge for discharging without permit	390,737.50	
25% surcharge for late payment	390,737.50 -	₱7,424,012.50
Forestry information fund	44,655.71	
25% surcharge for late payment	11,163.93 -	55,819.64
Forpride fund	111,639.28	
25% surcharge for late payment	27,909.82 -	139,549.10
Total Amount Due		₱7,619,381.24

On May 23, 1980, petitioner protested the deficiency assessment, which protest was denied by respondent in a letter dated August 15, 1984.

Hence, the present recourse.

The sole issue posed for resolution is whether petitioner is liable for payment of deficiency forest charges amounting to ₱7,619,381.24 based on the alleged 446,557.14 cubic meters of unmanifested logs.

The computation of respondent's examiners that there were 446,557.14 cubic meters of unmanifested logs was arrived at as follows: (p. 120, BIR records.)

Log inventory, Dec. 31, 1974 -	276,370.86	cu.m.
Log produced/manifested -----	755,239.81	" "
Total logs handled ----------	1,031,610.67	" "
Logs exported ----------------	716,908.46	" "
Logs locally sold -----------	62,912.06	" "
Logs processed --------------	282,862.74	" "
Logs inventory, Dec. 31, 1975-	293,976.35	" "
Total -----------------------	1,356,659.61	" "
Unaccounted Logs (net volume)-	325,048.94	" "
Logs unmanifested (net) ------	325,048.94	" "
Add: Allowance for natural defects deducted (27.21%) 325,048.94 ÷ 72.79% = 446,557.14; 446,557.14 - 325,048.94 = 121,508.20	121,508.20	" "
Gross volume of unmanifested log subject to tax (Rev. Reg. No. 3-72 dated April 17, 1972, Sec. 13)	446,557.14	" "

Petitioner takes the position that the contested deficiency assessment is illegal and not supported by facts, since the above computation on which it is based has already been revised in the reinvestigation conducted in connection with a companion deficiency assessment for income tax issued against petitioner. As a consequence of the revision, the original deficiency income tax assessment was cancelled and a new assessment issued which is the subject of the appeal in C.T.A. Case No. 3458, involving the same parties and the same year, now pending before the Court. It is averred that although the foregoing circumstances have rendered obsolete and moot the finding that there existed an unmanifested volume of 446,597.14 cubic meters of logs, respondent did not revise the deficiency assessment in the present case.

Petitioner's stand is meritorious.

The record of C.T.A. Case No. 3458 shows that as a result of the same examination conducted by respondent's examiners on the business tax aspect of petitioner for the year 1975, a deficiency assessment for income tax for the same year was also issued on February 27, 1981 against petitioner in the amount of ₱13,539,504.00, which is reproduced below: (Exh. "D", p. 112, BIR records, CTA Case No. 3458.)

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Net loss per return		(₱39,856,525.00)
Add: Unallowable Deductions & Add'l Income:		
Income from unmanifested logs cut in 1975	₱55,840,157.40	
Interest expense	1,936,747.36	
Prior year expenses	1,826,232.89	
Other disallowed exp. claimed	430,031.60	60,033,169.25
Net income per investigation		₱20,176,644.25
Income tax due thereon		7,051,825.00
Add: 50% surcharge		3,525,912.50
14% int. p.a. (42% max.)		2,961,766.50
AMOUNT DUE & COLLECTIBLE		₱13,539,504.00

The determination of respondent that there was ₱55,840,157.40 undeclared income from unmanifested logs, stemmed from the same finding of the revenue examiners in the case at bar, that petitioner did not manifest a gross volume of 446,557.14 cubic meters of logs. Petitioner contested the above assessment so that a reinvestigation was conducted.

In his report of reinvestigation to respondent Commissioner of Internal Revenue (Exh. "H", p. 134, BIR records, CTA Case No. 3458), the revenue examiner assigned to the income tax aspect of the examination conceded some errors pointed out by petitioner in the computation of the 446,557.14 cubic meters of unmanifested logs and, accordingly, he made the following recomputation: (p. 130, BIR records, CTA Case No. 3458.)

UNACCOUNTED LOGS

Log inventory, beg. (gross)		276,370.86	cu. m.
Log production (gross)		1,422,411.00	" "
Logs handled (gross)		1,698,781.86	" "
Logs inventory, end (gross)		293,976.35	" "
Logs disposed (gross)		1,404,805.51	" "
Logs actually disposed -			
Export sales of logs (gross)	716,908.46		" "
Domestic sale of logs (gross)	62,912.07		" "
Process logs (gross)	282,862.74	1,062,683.26	" "
Unaccounted logs (gross)		342,122.25	cu. m.
DEDUCT: Allowance for natural defects of logs (27.91%)		93,091.46	
Unaccounted logs - Net (72.91%)		249,030.79	

To conform to the recomputation, respondent cancelled the deficiency income tax assessment for ₱13,539,504.00 and issued on April 15, 1982 a new one for ₱4,763,750.40 itemized hereunder, which petitioner appealed to this Court in C.T.A. Case No. 3458: (Exh. "F", p. 150, BIR records, CTA Case No. 3458.)

Net income loss per return		(₱39,656,525.00)
Add: Unallowable Deductions/ Additional Income:		
Income derived from unmanifested logs cut in 1975	₱42,780,999.41	
Interest expense	1,956,747.36	

Prior year's expenses	1,826,232.89	
Other disallowed exp. claimed	430,031.60	46,974,011.26
Net income per investigation		₱ 7,117,486.26
Income tax due thereon		2,481,120.00
Add: 50% surcharge		1,240,560.00
14% int. p.a. (42% maximum)		1,042,070.40
TOTAL AMOUNT DUE AND COLLECTIBLE		₱ 4,763,750.40

It is indisputable that respondent's cancellation of the original deficiency income tax assessment and his issuance of a revised assessment due to the recomputation is an admission that the original finding that there was an unmanifested gross volume of 446,557.14 cubic meters of logs is erroneous, hence, it has ceased to be a valid basis for the deficiency assessment in the instant case.

Furthermore, a careful comparison of the afore-stated original and revised computations for unmanifested logs prepared by respondent's examiners will show that the "logs produced/manifested" in the original computation in the amount of 755,239.81 cubic meters was corrected to 1,422,411 cubic meters in the revised computation, an increase of 667,171.19 cubic meters. The figures for the logs disposed of and the inventories in both computations remained the same. Under the revised computation therefore, the increase of 667,171.19 cubic meters in the logs produced more than made up for the 446,557.14 cubic meters of logs which were allegedly not manifested by petitioner in the original computation, thus it appears that no logs were unmanifested for purposes of computing the forest charges.

In the light of the foregoing, it is quite clear that respondent has in effect reversed his original finding that petitioner did not manifest 446,557.14 cubic meters of logs for forest charges purposes. Consequently, his determination holding petitioner liable for the amount of ₱7,619,381.24, representing forest charges, forestry information fund and forpride fund for 1975, inclusive of surcharges, involved in this case, cannot be sustained.

WHEREFORE, the judgment under review should be as it is hereby reversed.

SO ORDERED.

Quezon City, Metro Manila, August 26, 1987.

Amante Filler

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge