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ESSO STANDARD EASTERN, INC.
(Formerly Standard Vacuum
Refining Corp. (Phil.),
Petitioner,

- versus - C.T.A. CASE NO. 1924

THE COMMISSIONER OF CUSTOMS,
Respondent.

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9/24/76

D E C I S I O N

Petitioner Esso Standard Eastern, Inc. has appealed from the decision of respondent Commissioner of Customs dated February 26, 1968, affirming that of the Collector of Customs in Manila Protest No. 813, imposing on and collecting from the herein petitioner the special import tax of ₱74.00 and customs duty of ₱174, a total of ₱248.00, on its importation of one (1) case duplicator, one (1) case duplicator stand, and one (1) case duplicating fluid declared under Entry No. 016897, series of 1959.

The following facts were stipulated upon by the opposing parties:

> 1. That the shipment involved, consisting of one (1) case duplicator, one (1) case stand for duplicator, and one (1) case duplicating fluid, arrived at the Port of Manila on board the S/S "Ferndale" from San Francisco on January 27, 1959 and consigned to Standard Vacuum Refining Corporation, with office at 1071 Isaac Peral, Manila;

2. That herein protestant has a petroleum refinery at Limay, Bataan, and is engaged in an industry which may be denominated as refining crude oil into gasoline and other products;

3. That the merchandise aforestated were declared in Entry No. 016897, series of 1959, with the following supporting shipping documents; Bill of Lading No. 42 of Barber Steamship Lines, Inc. dated January 8, 1959 at San Francisco, California; Bank Release Certificate No. PA-17417448 dated May 28, 1958 issued by the First National City Bank of New York, Manila; and Consular Invoice No. 485 of the Philippine Consulate General at San Francisco, California dated January 2, 1959;

4. That customs duty and special import tax in the amount of ₱74.00 and ₱174.00 respectively, were assessed and collected on subject importation, the same finally adjusted by the Customs Cashier under Voucher No. 11129 on February 11, 1961. (See Decision, Comm. of Customs, p. 4 CTA rec.)

On June 8, 1959, petitioner filed a protest with the Bureau of Customs, citing and invoking Article 103 of Rep. Act No. 387, otherwise known as the Petroleum Act of 1949, which reads as follows:

> "Art. 103. Customs Duties.- During the first five years following the granting of any concession, the concessionaire may import free of Customs duty, all equipment, machinery, material, instruments, supplies and accesories.
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> No exemption shall be allowed on goods imported by the concessionaire for his personal use or that of any others, nor for sale or re-export; and if any goods on which exemption has been allowed be thus used or disposed of, the conces-

> sionaire is obliged to make a report to the Secretary of Agricultural and Natural Resources to that effect and pay such import duty as due."

Petitioner, a petroleum concessionaire, contends that under the foregoing provisions of law, it is exempt from customs duty on the equipment, machinery, instruments, supplies and accessories imported by it during the first five years following the granting of its concession, and that said exemption likewise includes the special import tax imposed by Rep. Act No. 1394.

On September 25, 1967, the Collector of Customs of Manila denied petitioner's protest on the ground that: (1) the exemption from customs duty under Art. 103 of Rep. Act No. 387 refers to equipment and materials necessary and indispensable in the business of petroleum refinery; and (2) the special import tax imposed by Rep. Act No. 1394 is not a customs duty. Subsequently, petitioner appealed to the Commissioner of Customs who sustained the decision of the Collector of Customs. Hence, the present appeal.

The two issues presented to the Court for resolution are the following:

> (1) Whether or not the special import tax imposed by Republic Act No. 1394 is in conflict with Article 103 of Republic Act No. 387; and

(2) Whether or not the imported duplicator, duplicator stand, and duplicating fluid fall within the tax exemption covered by the phrase "equipment, machinery, material, instrument, supplies and accessories" referred to in Art. 103 of Rep. Act 387.

FIRST ISSUE:

We sustain petitioner's view. In the case of Commissioner of Customs vs. Esso Standard Eastern, Inc., G.R. No. L-28329, dated August 7, 1975, involving the same parties and identical issue, our Supreme Court upheld the decision of this Court in CTA Case No. 1661, holding in effect that the exemption from the payment of customs duty under Republic Act No. 387 necessarily includes the exemption from payment of the special import tax imposed by Republic Act No. 1394. Thus, our Supreme Court ruled:

> xx x x x x We are convinced that R.A. No. 387, The Petroleum Act of 1949, was intended to encourage the exploitation, exploration and development of the petroleum resources of the country by giving it the necessary incentive in the form of tax exemptions. This is the raison d etre for the generous grant of tax exemptions to those who would invest their financial resources towards the achievement of this national economic goal.
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> On the contention of herein petitioner that the exemptions enjoyed by respondent ESSO under R.A. No. 387 have been abrogated by R.A. No. 1394, We hold that repeal by implication is not favored unless it is manifest that the legislature so intended. As laws are presumed to be passed with deliberation and with full knowledge of all existing ones on the subject,

> it is logical to conclude that in passing a statute it was not intended to interfere with or abrogate any former law relating to the same matter, unless the repugnancy between the two is not only irreconcilable but also clear and convincing as a result of the language used, or unless the latter act fully embraces the subject matter of the earlier.[14]
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> As observed earlier, Congress lined up for revocation by Republic Act No. 1394 six statutes dealing with the imposition of special imposts or levies or the granting of exemptions from special import taxes. Yet, considering the tremendous amount of revenues it was losing under the Petroleum Law of 1949, it failed to include the latter statute among those it choose to bury by the Special Import Tax Law. The reason for this is very clear: The legislature wanted to continue the incentives for the continuing development of the petroleum industry.
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> It is not amiss to mention here in passing that contrary to the theory of the herein petitioner, R.A. No. 387 had not been repealed by R.A. No. 2352 which expressly abrogated Section 6 of R.A. No. 1394 but did not repeal any part of R.A. No. 387. Therefore, the exemption granted by Republic Act No. 387 still stands. (Underscoring supplied)

SECOND ISSUE:

Respondent Commissioner contends that the imported duplicator, duplicator stand, and duplicating fluid should not be exempted from customs duty under Republic Act No. 387 because they are not equipment, materials or instruments directly and exclusively used by the petitioner in the manufacture of petroleum into gasoline or in carrying out its auxiliary works and operations essential to the refinery business.

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[14] U.S. v. Palacio, 33 Phil. 208.

On the other hand, petitioner contends that Art. 103 of Rep. Act No. 387, supra, does not expressly require that the imported equipment, machinery, material, instruments, supplies and accessories should be used directly or exclusively in the refinery business or in the manufacture of petroleum products as long as they were used by petitioner in carrying out its corporate business as a petroleum concessionaire.

The purpose and objective of granting tax exemption to petroleum concessionaire has been emphasized in the case of Commissioner of Customs vs. Esso Standard Eastern, Inc., supra. Thus, our Supreme Court said:

> xx xx xx We are convinced that R.A. No. 387, The Petroleum Act of 1949, was intended to encourage the exploitation, exploration and development of the petroleum resources of the country by giving it the necessary incentive in the form of tax exemption. This is the raison de etre for the generous grant of tax exemptions to those who would invest their financial resources towards the achievement of this national economic goal. (Underlining supplied.)

Under Article 103 of Republic Act No. 387, supra, the requisites for tax exemption are the following, to wit:

> (1) The importation of the said article is made within five years following the grant of the concession;
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> (2) The imported articles shall not be for the personal use of the concessionaire or others; and

(3) They are not for sale or for re-export.

In the case at bar, respondent failed to dispute that the duplicator, duplicator stand, and duplicating fluid were used by petitioner in making copies of memoranda and/or orders given to its workers to promote their efficiency for the benefit of petitioner and in copying and reproducing written materials for record purposes. In brief, the said imported articles were used by petitioner in the furtherance of its objective as a petroleum concessionaire and that it has complied with all the requisites for tax exemption under Art. 103 of Rep. Act No. 387.

In the case of Philippine Air Lines vs. Commissioner of Internal Revenue, CTA Case No. 1943, August 22, 1970, the question raised was whether or not under Section 13 of its franchise, PAL is exempt from the payment of compensating tax on the ten (10) air-conditioning units, two (2) typewriters, and dental equipment imported by it in 1965 and 1966. In resolving the legal question at issue, this Court, among others, held as follows:

> Respondent's interpretation of the scope of petitioner's tax exemption is not in accord with the accepted doctrines pertinent to the point. When property is exempt from taxation, it is almost universally held that the exemption covers,

> only so much as are necessary to the operation of the business and the accomplishment of its purposes. But in order that property may come within the scope of the exempting statute, it need not be necessary, in the sense of indispensable to the carrying on of the business; it is enough if it is obviously appropriate and convenient.
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> . . . However, in order that property of a corporation may come within a statute exempting the property of such a corporation from taxation, it need not be necessary, in the sense of "indispensable," to the carrying on of the business of the corporation. It is enough if it be "obviously appropriate and convenient" to enable the corporation to carry into effect the franchise granted . . . (Cooley, Vol. 2, 4th ed., pp. 1593-1594.)
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> 683.- Property actually necessary.- Even if the exemption is based upon the use made of the property it is not limited to property actually indispensable, unless the statute so expressly provides, but instead also includes property obviously appropriate and convenient to carry out the purposes of the corporation . . . (Cooley, Vol. 2, 4th ed., p. 1430).

Applying the same doctrine to the case at bar, we hold that petitioner is exempt from the payment of the customs duty and the special import tax on the imported articles here in question because they were used in petitioner's activities.

WHEREFORE, the decision of the respondent Commissioner of Customs appealed from is reversed and he is hereby ordered to refund to petitioner the sum of ₱248.00, representing customs duty and special import tax paid on the aforesaid imported articles. Without costs.

SO ORDERED.

Quezon City, September 24, 1976.

ESTANISLAO R. ALVAREZ
Presiding Judge

WE CONCUR:

(Did not take part)
AMANTE FILLER
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge