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TAN CHIU, (doing business under the name and style of TAN CHIU SHIRT FACTORY),
Petitioner,

- versus -

C.T.A. CASE NO. 451

December 27, 1958

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

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DECISION

This is an appeal from the decision of the respondent denying the petitioner's claim for refund of the sum of ₱3,648.32, alleged to have been erroneously or illegally paid as sales tax, and for interest thereon.

The facts of this case are as stipulated by the parties. The petitioner is engaged in the business of manufacturing undershirts. In the manufacture of undershirts, it used as part thereof, cotton knitted materials which the petitioner purchased from manufacturers or producers who enjoy tax exemptions under Republic Act No. 901. It paid, under protest, the total sum of ₱3,648.32 as part of the percentage tax on the sales of manufactured undershirts corresponding to the cost of materials purchased from said tax exempt manufacturers or producers in the amounts of ₱45,179.64 and ₱6,939.18 during the periods from the first quarter up to the last quarter of 1956 and from January 1 to May 31, 1957, the cost of which materials were not allowed by the respondent as deductions for purposes of the computation of the sales tax.

The request for refund of the said sum of ₱3,648.32 having been denied by the respondent, this appeal was instituted.

The sole issue involved in this case is whether or not for purposes of the computation of the taxable sales, deduction may be allowed from the gross selling price of the total cost of cotton knitted materials purchased by the petitioner from persons engaged in industries exempt from taxes under Republic Act No. 901 and which were used in the manufacture of the former's undershirts.

The resolution of the issue raised by the parties turns upon the proper application of Section 186 of the Tax Code quoted below, which relates to the deductions allowed for purposes of the computation of the taxable sales:

> "Sec. 186. Percentage tax on sales of other articles.- There shall be levied, assessed, and collected once only on every original sale, barter, exchange, and similar transaction either for nominal or valuable considerations to transfer ownership of, or title to, the articles not enumerated in section one hundred and eighty-four and one hundred eighty-five a tax equivalent to seven per centum of the gross selling price or gross value in money of the articles so sold, bartered, exchanged, or transferred, such tax to be paid by the manufacturer or producer; PROVIDED, That where the articles are manufactured out of materials subject to tax under this section, the total cost of such materials, as duly established, shall be deductible from the gross selling price or gross value in money of the manufactured articles; x x x" (Underscoring supplied.)

The petitioner contends that the total cost of the cotton knitted materials in question is deductible from the gross selling price of the manufactured undershirts for the reason that said materials are subject to the percentage tax under the aforecited section 186. Being subject to such tax, the deduction of the cost of the materials is thus authorized thereunder. Upon the other hand, the respondent argues that the raw materials used in the manufacture of the undershirts were never subjected to the payment of tax because Republic Act No. 901 expressly exempts from taxation, the industries producing said raw materials. Consequently, it is argued that the total cost of the raw materials should not be discounted from the gross selling price of the manufactured undershirts sold by the petitioner.

As admitted by both parties, no tax was actually paid on the cotton knitted materials in question when originally sold by the manufacturers or producers to the petitioner because the former are exempt from the payment of taxes in pursuance of Republic Act No. 901. In view of said exemption privilege, the said manufacturers or producers, as operators of new and necessary industries defined by said Republic Act No. 901, are not required to pay the taxes on the original sales of their manufactured cotton knitted materials. It follows that the said materials are not subject to tax under Section 186 of the Tax Code. The legislative intent being clear that the cotton knitted materials in question are not subject to the percentage tax provided by said section 186, we believe that the total cost of the said materials purchased from the said tax-exempt manufacturers or producers should not be allowed as deduction from the selling price of the petitioner's manufactured undershirts, and we so hold accordingly. In this connection, it must also be borne in mind that tax deductions are a matter of legislative grace and that a particular deduction will be allowed only where there is a clear provision in the statute for the deduction claimed (New Colonial Ice Co. v. Helvering, 292 U.S. 435, 78 L. Ed. 1348; Milton Bradley Co. v. U.S., 146 F 2d 541).

The proviso of Section 186 authorizing the deduction of the cost of materials manufactured into articles from the gross selling price of such articles has been intended to foreclose the possibility of double taxation. It is designed to avoid the double assessment and payment of the percentage sales tax on the same material that went into the manufacture of another article. Such being the object of this proviso concerning the deduction, we cannot see how the inclusion of the cost of the cotton knitted material as part of the gross selling price of the manufactured undershirts would thwart the congressional purpose of avoiding double taxation. By such inclusion and the payment of the percentage sales tax thereon, the petitioner would, in effect, be paying only once on the materials which went into the manufacture of the sold undershirts.

Moreover, the tax exemption benefits granted by Republic Act No. 901 are limited only to the new and necessary industries therein defined. They cannot be availed of by others such as the subsequent manufacturer on the latter's original sales of their manufactured articles. To adopt the theory of the petitioner would be exempting from the percentage sales tax the amount equal the cost of the raw materials which were purchased from tax exempt manufacturers or producers and subsequently forming part of the manufacturer of non-tax-exempt persons. This, we believe, would be a strained interpretation and beyond the pale of Republic Act No. 901 in relation to section 186 of the Tax Code.

To buttress the proposition of the deductibility of the value of tax-free product from the gross selling price thereof, the petitioner invokes the public policy consideration involved in Section 186-A of the Tax Code. In this connection, it must be observed that Republic Act No. 2025 which inserted said Section 186-A, by its own words, took effect upon its approval on June 22, 1957—twenty two days after the petitioner's last purchases of the raw materials herein involved. A perusal of the statute does not yield a congressional purpose and intention, expressly or impliedly, to give retrospective effect to it. Neither is there a showing that Republic Act No. 2025 is declaratory of the intent of Congress when it approved section 186 of the Tax Code as well as Republic Act No. 901. These legislations were approved by different Congresses and accordingly neither is qualified to speak about the intent of the other. (Misamis Lumber Co. v. Collector, G. R. No. L-10131, Sept. 30, 1957.) On the other hand, it is well settled that tax laws, like all other statutes, are to be construed as having only a prospective operation unless the purpose and intention of the legislature to give retrospective effect is expressly declared, or is necessarily implied from the language used (Lorenzo v. Posadas, 64 Phil. 353; see also La Paz Ice Plant & Cold Storage Co., Inc. v. Bordman, et. al., 65 Phil. 401; The Manila Trading & Supply Co. v. Santos, et al., 66 Phil. 237). There is a presumption that the legislature intended its amendment to operate only *in futuro*. *Lex prospicit, non respicit*. And in case of every doubt, the doubt must be resolved against the retrospective operation.

WHEREFORE, the decision appealed from is hereby affirmed and the instant petition for the refund of the sum of ₱3,648.32 paid as sales tax, hereby dismissed. With costs against the petitioner.

SO ORDERED.

Manila, December 27, 1958.

MARIANO NABLE
Presiding Judge

I CONCUR:

Aff'd. GR L-15008, Jan. 28, 1961.

AUGUSTO M. LUCIANO
Associate Judge

Associate Judge Roman M. Umali abstained.