lit.

STANDARD ALCOHOL CO., INC.,
Petitioner,

- versus - CTA CASE NO. 603

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

11/29/76

D E C I S I O N

Petitioner has appealed from the decision of the Commissioner of Internal Revenue holding it liable for specific taxes amounting to ₱4,853,419.61 for the years 1955 to 1957.

Petitioner is a duly registered corporation engaged in the manufacture of industrial chemical products such as paint thinner, varnish, wood dye, silax, polishing wax, insecticides and other similar products using denatured alcohol as the principal ingredient thereof. The denatured alcohol used by petitioner was purchased by it from various distilleries. The rest of the denatured alcohol needed by petitioner was produced by it tax-free by virtue of the permission and authority granted by the Collector of Internal Revenue.

In October 1954, petitioner requested the opinion of the Collector of Internal Revenue as to whether or not the locally purchased alcohol used by it and those derived from its production of denatured alcohol is exempt from the specific tax (P0.70 per proof liter) imposed by Section 133 of the National Internal Revenue Code, in relation to Section 127 of the same Code, *infra*. In reply thereto dated October 28, 1954, Acting Collector of Internal Revenue J. Antonio Araneta stated as follows:

> The Standard Alcohol Co., Inc.,
> Marulas, Polo, Bulacan
>
> Gentlemen:
>
> In reply to your letter of the 27th instant, requesting opinion as to whether denatured alcohol with 2% methanol and fluorescein color is subject to specific tax provided for in section 133 in relation to section 127, both of the National Internal Revenue Code, I have the honor to inform you that inasmuch as the denatured alcohol to be produced by you will be used exclusively in the manufacture of industrial chemical products, namely: Floor varnish, Silax, Agriden, Lacquer Thinner, Varnish Thinner, Lacquer, Wood Dye, Paint Remover, Brake Fluid and Paint Thinner, the same is exempt from the specific tax. However, the denatured alcohol is subject to the sales tax imposed in section 186 of the same Code.
>
> Very respectfully,
>
> (SGD.) J. ANTONIO ARANETA
> Acting Collector of Internal Revenue

To the same effect was the ruling of Collector of Internal Revenue Saturnino David dated November 12, 1952, wherein he stated as follows:

> Standard Alcohol Company, Inc.
> 845 Jaboneros Street, Manila
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> Gentlemen:

> In reply to your letter of the 16th ultimo, I have the honor to inform you that domestic denatured alcohol of not less than one hundred eighty degrees proof (ninety per centum absolute alcohol) which are for use generally in the arts and industries are exempt from the specific tax prescribed in sections 133 and 142(d) of the National Internal Revenue Code. The specific tax paid on such kind of alcohol may be refunded to the distiller provided that he files with this Office a written claim for refund of said tax within two years from the date of payment thereof.
>
> Very respectfully,
>
> (SGD.) S. DAVID
> Collector of Internal Revenue

From the foregoing rulings of the Collector of Internal Revenue, it is to be noted that "denatured alcohol" used in the manufacture of industrial chemical products is exempt from specific tax imposed by Section 133 of the National Internal Revenue Code although the same is included within the meaning of the term "distilled spirits" defined therein.

The difference between "distilled spirits" and "denatured alcohol" lies more in the effect of the two products. Distilled spirits used in medicinal preparations, flavoring extracts, and alcoholic beverages are capable of oral intake while denatured alcohol, if so taken, is injurious to health and can be fatal to life. Consequently, it has been the consistent ruling in the Bureau of Internal Revenue that denatured alcohol used exclusively in the manufacture of <u>industrial chemical products</u> is exempt from the specific tax but subject to the sales tax.

The said rulings of the Collector of Internal Revenue (now Commissioner) were followed and enforced by revenue officials. Thus, in the case of Commissioner of Internal Revenue vs. Central Azucarera Don Pedro,[1] it has been pointed out that:

> Later, however, on the basis of a report (Exh. 3) dated May 26, 1955, of Internal Revenue Agents Mariano P. Uy and Venancio V. Ona, petitioner wrote a letter dated May 30, 1955 (Exh. 4) assessing and demanding from respondent the sums of P199,906.10 as specific tax on said 284,423 proof liters of denatured alcohol and P10,000.00 as compromise penalty.
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> Subsequently, after a reinvestigation, and finding that out of the total of said 284,423 proof liters of denatured alcohol removed from respondent's distillery, only 48,138 proof liters were actually used by the Pacific Products, Inc. and the Pacific Industrial Manufacturing in the production and manufacture of rubbing alcohol compound, petitioner, on May 24, 1957, wrote a letter (Exh. E), notifying respondent that the original assessment and demand for specific tax against it was reduced from P199,906.10 to P33,696.60, exclusive of the compromise penalty of P10,000.00. It appears that the rest of the denatured alcohol amounting to 236,285 proof liters, was utilized by said corporations in the manufacture of shellac, varnish, lacquer, thinner, wood dye, glass cleanser, and cleaning fluids. (Underscoring supplied.)

The rulings, practices and procedure adopted by the Bureau of Internal Revenue in exempting denatured

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[1] Phil. Reports, Vol. 108, May 31, 1960

alcohol from the payment of specific taxes when used in the manufacture of industrial chemical products mentioned before are now reflected, crystallized and embodied in Section 128 of the National Internal Revenue Code[2] which reads as follows:

> SEC. 128. Exemption in favor of domestic denatured alcohol. - Domestic alcohol of not less than one hundred eighty degrees proof (ninety *per centum* absolute alcohol) shall, when suitably denatured and rendered unfit for oral intake, be exempt from the specific tax prescribed in Section 133: *Provided, however*, That such denatured alcohol shall be subject to tax under Section 186: *Provided, further*, That if such alcohol is to be used for motive power, it shall be taxed under Section 142 (d) of this Code.

Notwithstanding the invariable exemption of denatured alcohol from the specific tax imposed by Section 133 of the Tax Code when used in the manufacture of industrial chemical products, respondent Commissioner assessed against and demanded upon petitioner payment of P4,853,419.61, computed as follows:

Specific tax at P0.70 per proof liter on 6,948,010 proof liters of distilled spirits used - - -	P4,863,607.00
LESS: 7% sales tax paid on sale of manufactured products - - -	10,187.39
Amount of Specific Tax due	P4,853,419.61

The said assessment and demand for specific tax are contained in the letter of Acting Commissioner of Internal Revenue Melecio R. Domingo to petitioner dated November 5, 1958. It was also stated in the

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[2] Presidential Decree No. 69, Dec. 6, 1972

penultimate paragraph thereof that "this Office will be constrained to enforce the collection thereof xx xx xx by means of the remedies provided by law, without prejudice to the criminal prosecution which may be instituted against you in accordance with law." (Underscoring supplied)

The said assessment against petitioner was predicated on Sections 127 and 133 of the National Internal Revenue Code, the pertinent portions of which provide as follows:

> SEC. 127. Tax on preparation containing distilled spirits as chief ingredient. - Medicinal preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits form the chief ingredient, shall be subject to the same tax as such chief ingredient. xx xx xx xx xx
>
> SEC. 133. Specific tax on distilled spirits. - On distilled spirits there shall be collected subject to the provisions of section one hundred and twenty-eight of the act, except as hereinafter provided, specific taxes as follows: xx xx xx
>
> "Distilled spirits", as here used, include all substances known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wines which are commonly produced by the fermentation and subsequent distillation of grain, starch, molasses, or sugar, or of some syrup or sap, including all dilutions or mixtures; and the tax shall attach to this substance as it is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately or at any subsequent time transformed into any other substances either in process of original production or by any subsequent process. x x

There is no dispute as to the facts of this case. The principal and sole issue submitted to this Court for resolution is whether or not the denatured alcohol used by petitioner in the manufacture of its industrial chemical products is subject to the specific tax of P0.70 per proof liter imposed by Section 133 of the National Internal Revenue Code, in relation to Section 127 of the same Code.

It is admitted that the chief ingredient of petitioner's industrial chemical products is distilled spirits - denatured alcohol. Respondent contends, therefore, that said products, although they are not medicinal preparations or flavoring extracts, fall under the broad and comprehensive meaning of the phrase "all other preparations" enumerated in Section 127 of the Tax Code, supra.

In opposing respondent's view, petitioner emphasized that the phrase "all other preparations" found in Section 127 of the Tax Code should be interpreted in relation to the preceeding restrictive terms, namely: "medicinal preparations" and "flavoring extracts". Petitioner, therefore, invoked as a defense against respondent's assessment the rule of statutory construction known as ejusdem generis.

It is a settled rule of statutory construction that where general words follow the designation of particular things, or classes of persons or subjects, the general words are to be construed as including only the persons or subjects of the same class or general nature as those specifically enumerated. This is a rule of statutory construction known as __ejusdem generis__.[3] When Congress added the all-embracing phrase "all other preparations" after "medicinal preparations" and "flavoring extracts" at the end of the enumeration of the products subject to specific tax, the same should be construed to include those products similar to medicinal preparations and flavoring extracts.

In brief, when a statute describes things of particular kind or class accompanied by words of a generic character preceded by the word "other", the generic words will usually be limited to things of a kindred nature as those particularly enumerated, unless there be something in the context or history of the statute to repeal such inference.[4]

If we were to follow respondent's theory that the intention of Congress was to impose the specific tax on all kinds of preparation using denatured alcohol or distilled spirits as chief ingredient of the manufactured industrial chemical products, then Congress should have worded Section 127 of the National Internal Revenue Code, __supra__, as referring to "all preparations" without qualification. The fact that the terms "medicinal preparations" and "flavoring extracts" were specifically enumerated before the phrase "all other preparations" shows beyond doubt the manifest intention

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3 Ollada v. Court of Tax Appeals, 99 Phil. 610 citing Crawford, The Construction of Statutes, pp. 326-327

4 Martin, Statutory Construction, 1970 ed., p. 69

of Congress to limit and restrict the meaning of the general phrase "all other preparations" to cover only the same class or general nature as "medicinal preparations" and "flavoring extracts."

The rule of statutory construction known as ejusdem generis is not new or strange in the field of taxation. In the case of the Stock Transfer Service, Inc. vs. Commissioner of Internal Revenue,[5] this Court held that the phrase "other independent contractors" found in Section 191 of the National Internal Revenue Code should be construed as including only the persons or occupations of the same class or general nature as those specifically enumerated in the statute. Consequently, in the said case, this Court reversed the ruling of the respondent Commissioner of Internal Revenue and declared petitioner Stock Transfer Service, Inc. exempt from the payment of the fixed and percentage taxes imposed upon contractors.

Our adherence to the settled rule of statutory construction (ejusdem generis) in the case of Stock Transfer Service, Inc., supra, was assailed, disputed and elevated to the Supreme Court by the Commissioner in the case entitled Commissioner of Internal Revenue

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[5] CTA Case No. 2003, July 29, 1971

vs. Stock Transfer Service, Inc. et al.[6] However, our highest tribunal upheld the stand of the Court of Tax Appeals on the legal issues of statutory construction similar to the case at bar when the Commissioner's petition for review on certiorari was rejected and denied by the Supreme Court.

Accordingly, we hold that the denatured alcohol used by petitioner in the manufacture of industrial chemical products for the years 1955 to 1957, inclusive, is exempt from the specific tax of ₱0.70 per proof liter imposed by Section 133 of the National Internal Revenue Code.

Before disposing finally the legal issues involved in this case, it appears that the respondent Commissioner of Internal Revenue anchored its principal argument on the doctrine laid down by the Supreme Court in the cases of La Todeña, Inc. vs. Collector of Int. Rev., et al.[7] and Commissioner of Internal Revenue vs. Central Azucarera Don Pedro [8] holding that denatured alcohol used in the manufacture of rubbing alcohol is subject to the specific tax imposed by Section 133 of the National Internal Revenue Code, in relation to Section 127 of the same Code, supra.

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6 G. R. No. L-34582, Resolution dated Jan. 25, 1972

7 G. R. No. L-14336, April 30, 1974, 10 SCRA 709

8 Supra.

The decision in the above-cited cases is not applicable to the case at bar because they are based on a different factual background. In the said cases, this Court and the Supreme Court are in full agreement that "rubbing alcohol" is a "medicinal preparation" of which distilled spirits is the chief ingredient. The same ruling cannot be applied in this case as respondent has neither alleged nor adduced evidence that petitioner's industrial chemical products are of the same class or general nature as "medicinal preparations" or "flavoring extracts." In fact, no ordinary layman will confuse paint thinner, varnish, wood dye, silaz, polishing wax, insecticides and other industrial chemical products with that of "rubbing alcohol" which was decided by the courts to be a medicinal preparation. Neither may the industrial chemical products enumerated above be confused with the term "flavoring extracts."

It may be noted that a critical study shows that, in the case of Central Azucarera Don Pedro, supra, instead of favoring the stand of respondent, it strengthens and bolsters the defense of the herein petitioner. In the said case, respondent Commissioner of Internal Revenue issued an assessment against petitioner calling for the payment of ₱199,906.10 as specific tax due on 284,423 proof liters of denatured alcohol sold by the taxpayer to two other corporations to be used in the manufacture of rubbing alcohol. When the Commissioner of Internal Revenue found out later that only 48,108 proof liters of denatured alcohol were used by the buyers in the manufacture of rubbing alcohol, the original specific tax assessment of P199,906.10 was reduced to P33,696.60 only. But why?

The answer is clearly reflected in the action taken by respondent himself. As the Supreme Court said, the corresponding assessment for specific tax on the difference of 236,285 proof liters of denatured alcohol used by the vendee corporations in the manufacture of their industrial chemical products, namely: shellac, varnish, lacquer, thinner, wood dye, glass cleanser, and cleaning fluids was automatically withdrawn and cancelled by the Commissioner of Internal Revenue. Consequently, this Court is constrained to disagree with the nebulous view taken by the respondent Commissioner of Internal Revenue in the case at bar involving a staggering but shaky specific tax assessment of P4,853,419.61.

DECISION
CTA CASE No. 603

WHEREFORE, the decision of the Commissioner of Internal Revenue appealed from is reversed and the wobbly specific tax assessment of ₱4,853,419.61 issued against petitioner is hereby cancelled and declared to be without force and effect. No costs.

SO ORDERED.

Quezon City, November 29, 1976.

ESTANISLAO R. ALVAREZ
Presiding Judge

WE CONCUR:

AMANTE FILLER
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge

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