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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

REYNOLDS PHILIPPINE CORPORATION,
Petitioner

versus

Nov. 25/66

C.T.A. CASE NO. 1101

COMMISSIONER OF INTERNAL REVENUE and COLLECTOR OF CUSTOMS,
Respondents.

x - - - - - - - - - - - - - - - x

D E C I S I O N

This is in connection with the petition for review filed by petitioner seeking the refund of the sum of ₱197.30, allegedly representing the balance of overpaid advance sales tax on its various importations of laminating paper in 1959.

Petitioner is a domestic corporation engaged in the manufacture of aluminum foil mounted on paper used for wrapping cigarette, foodstuff and candy. It was granted tax exemption under Republic Act No. 910, effective June 23, 1953, as a new and necessary industry. By virtue of the grant, it enjoyed full exemption from the payment of internal revenue taxes from June 23, 1953 to December 31, 1958 and to a diminishing exemption beginning January 1, 1959 to December 31, 1962.

Sometime in 1959, petitioner imported several rolls of laminating paper and paid the corresponding full customs duties, special import tax and advance sales tax to the Bureau of Customs (Exh. O-1 & P, pp. 37 and 57, BIR rec.). On March 30, 1960, petitioner filed with the respondent Commissioner of Internal Revenue a claim for refund of advance sales tax in the amount of ₱23,694.00 which it had paid on 11 shipments of laminating paper (Exh. Q, pp. 1-2, BIR rec.). For the same shipments, it also filed with respondent Commissioner of Customs a claim for refund of the sums of ₱42,534.00 and ₱9,337.00 that it had paid as customs duties and special import tax, respectively (Exh. B, p. 47, BIR rec.). No action having been made on its claims for refund, petitioner filed on May 20, 1961 a petition for review, seeking the refund of customs duties, special import tax and advance sales tax alleged to have been erroneously collected on the aforesaid 11 shipments of laminating paper. On May 31, 1961, petitioner filed an amended petition for review to include the refund of taxes paid on 2 additional shipments of laminating paper. On August 2, 1961, this Court upon motion of respondent Collector of Customs, dismissed the case insofar as petitioner's claim for refund of customs duties and special import tax is concerned, inasmuch as there is as yet no decision of the Commissioner of Customs to be revived by this Court (pp. 29-33, CTA rec.). In view of this, we shall limit ourselves to petitioner's claim for refund of the advance sales tax.

In its amended petition for review, petitioner claims the refund of advance sales tax on 13 shipments of laminating paper in the total sum of ₱24,932.00.

However, in its reply memorandum, petitioner asks only for the refund of ₱197.30, allegedly the difference between the amount of advance sales tax credited to it (₱17,498.70) and the amount legally refundable (₱17,696.00) on 10 shipments of laminating paper. We, therefore, take it that petitioner no longer claims the refund of the advance sales tax paid on the remaining 3 shipments (Items Nos. 6, 10 & 11, par. 3, amended Petition for Review) nor of the bulk of the advance sales tax of the ten controverted shipments. The tabulation of petitioner's final claim is as follows:

Shipment	Vessel S/S	Bl.No.	Claim Filed	Credit Received	Credit Over (Short)
236 rolls laminating paper	Mentor	3	₱4,351.00	₱ 4,289.40	₱ 61.60
124 " "	Japan	10	1,631.00	1,611.00	20.00
108 " "	Pioneer Mist	9	3,135.00	3,090.60	44.40
194 " "	Hoesian Maru	504	2,892.00	2,878.20	13.80
30 " "	Pioneer	11	1,092.00	1,090.80	1.20
92 " "	Bonneville	P - 7	1,465.00	1,463.40	1.60
16 " "	Varda	Plm- 3	231.00	199.10	51.90
127 " "	Talabut	17	1,667.00	1,665.00	2.00
27 " "	Illinois	11	509.00	508.50	0.50
31 " "	Pres. Garfield	66	723.00	722.70	0.30
		Total -	₱17,696.00	₱17,498.70	₱197.30

The principal issue to be resolved by this Court is whether or not petitioner is entitled to the refund of the aforesaid ₱197.30, as overpaid advance sales tax.

Respondent argues that petitioner is not entitled to the refund of ₱197.30 on the grounds that: (1) Petitioner did not file claim for refund with respect to the amounts of ₱509.00 and ₱723.00, the alleged overpaid advance sales tax on the last two shipments (Items Nos. 12 and 13, paragraph 3, Amended Petition for Review - corresponding to the last two items in the foregoing tabulation); and (2) Petitioner, in the computation of the advance sales tax, excluded from the tax base the amount of special import tax credited to but not actually received by it.

The evidence shows that the claim for refund covering the controverted two shipments of laminating paper in the sums of ₱509.00 and ₱723.00 had been duly filed with respondent. Respondent's examiner, Francisco J. Mariaseta, recommended the refund to petitioner of the sum of ₱145.40 in his letter dated March 18, 1963 (Exh. O, p. 39, BIR rec.). In a work sheet attached to the said letter, respondent credited petitioner the amounts of ₱508.50 and ₱722.70 on the two shipments in question of which petitioner claims only a remaining balance of ₱0.80 (See Exh. O-1, supra.). Respondent Commissioner of Internal Revenue obviously had already credited petitioner the bulk of said payments. Considering the presumption of regularity in the performance of official acts, it can be safely said that respondent would not have credited petitioner for the payments made on these two shipments if the latter did not file a claim for credit or refund.

Respondent's argument that petitioner is not entitled to the refund of advance sales tax because it has not actually received the refund of special import tax, which was merely credited to it by the Secretary of Finance, is devoid of merit. It is not required that petitioner actually received the refund of the special import tax before it can exclude the same from the tax base in computing the advance sales tax. It is sufficient that petitioner show, as it has satisfactorily shown here, that it was entitled to the exemption of the special import tax. Petitioner properly excluded from the tax base the special import tax paid on the two shipments of laminating paper (Items Nos. 1 & 2, Amended Petition for Review) because, under Republic Act No. 1394, it is exempt in full from the special import tax until June 19, 1959. Indeed, as a matter of fact, the Secretary of Finance recognized petitioner's exemption when he approved the refund of the special import tax paid on these two shipments (See Exhs. B, C & C-1, pp. 44-47, BIR rec.).

We agree with the recommendation of respondent's examiner to refund to petitioner the sum of ₱145.40 which is lesser by ₱51.90 than the sum of ₱197.30 being claimed by it. The difference of ₱51.90 pertains to the alleged overpaid advance sales tax on the shipment of 16 rolls of laminating paper (Item No. 8, par. 3, Amended Petition for Review; Item No. 7, Reply

Memo.) which was not taken into account by Examiner Mariazeta because his investigation showed that petitioner paid only ₱199.00 on this shipment instead of ₱256.00 as claimed by it (Exh. O-1, supra, & Exh. J, p. 79, CTA rec.). These appear in the very evidence of petitioner, that is, its Exhibits O-1 and J. If it wanted to modify items in said exhibits, it should have adduced clear and convincing proof, to wit, the official receipt of payment, but in this respect petitioner failed.

The amount of ₱145.40, as computed below, should therefore be refunded to petitioner:

	Shipments	Claim Filed	Credit Received	Credit Short
1.	236 rolls of laminating paper	₱ 4,351.00	₱ 4,289.40	₱ 61.60
2.	124 rolls of laminating paper	₱ 1,631.00	1,611.00	20.00
3.	108 rolls of laminating paper	₱ 3,135.00	3,090.60	44.40
4.	194 rolls of laminating paper	₱ 2,892.00	2,878.20	13.80
5.	40 rolls of laminating paper	₱ 1,092.00	1,090.80	1.20
6.	92 rolls of laminating paper	₱ 1,465.00	1,463.40	1.60
7.	127 rolls of laminating paper	₱ 1,667.00	1,665.00	2.00
8.	27 rolls of laminating paper	₱ 509.00	508.50	0.50
9.	31 rolls of laminating paper	723.00	722.70	0.30
	T o t a l	₱ 17,465.00	₱17,319.60	₱145.40

Petitioner asks that it be awarded interest on the amount refundable to it. It not appearing that the collection of the tax in question was arbitrary or manifestly unwarranted, the Government is not liable to pay interest (Coll. of Int. Rev. v. Binalbagan Estate, Inc., L-12752, Jan. 30, 1965).

WHEREFORE, respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner the sum of ₱145.40, representing the balance of overpaid advance sales tax on 9 shipments of laminating paper imported by it in 1959. Without costs.

SO ORDERED.

Quezon City, November 25, 1966.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge