JUAN L. LEDESMA,
Petitioner,

versus C.T.A. CASE NO. 163

SILVERIO BLAQUERA, in his
capacity as Collector of
Internal Revenue,
Respondent.

x - - - - - - - - - - - - x January 17, 1957

D E C I S I O N

Petitioner is the owner of a sugar hacienda situated in Saravia, Negros Occidental. It is alleged that due to recurrent breakdowns of the Silay-Hawaiian Central during the crop year 1953-1954, with which central petitioner is affiliated, petitioner was forced to mill his sugar cane in his muscovado sugar mill. During the first and second quarters of 1954, petitioner milled in and removed from his muscovado sugar mill sugar valued at ₱34,123.25. Respondent assessed against petitioner the sum of ₱853.09 as percentage tax of 2% on the said sum of ₱34,123.25 under Section 189 of the National Internal Revenue Code, plus 25% surcharge for late payment pursuant to Section 183 of the same Code. In addition, petitioner is also being required to pay ₱65.00 as "compromise penalty."

It is argued on behalf of petitioner that he can not be held liable to the said tax because he is not a proprietor or operator of a sugar central. On the other hand, respondent claims that "muscovado sugar mills" are embraced within the term "sugar centrals" as used in Section 189 of the Revenue Code and, therefore, proprietors or operators of muscovado sugar mills are subject to the tax prescribed in said section.

Section 189 of the Revenue Code provides:

> "SEC. 189. Percentage tax upon proprietors or operators of rope factories, sugar centrals, rice mills, coconut oil mills, corn mills, and desiccated coconut factories.—Proprietors or operators of rope factories, sugar centrals, rice mills, coconut oil mills, corn mills and desiccated coconut factories shall pay a tax equivalent to two per centum of the gross value in money of all the rope, sugar, rice, coconut oil, ground or milled corn, and desiccated coconut manufactured or milled by them, including the by-products of the raw materials from which said articles are produced or manufactured, such tax to be based on the actual selling price or market value of these articles at the time they leave the factory or mill warehouse: Provided, however, That this tax shall not apply to coconut oil, and the by-products of copra from which it is produced or manufactured, and desiccated accounts if such oil, copra by-products and desiccated coconuts shall be removed for exportation and are actually exported without returning to the Philippines, whether so exported in their original state, or as an ingredient or part of any manufactured article or product.
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> "In case the raw materials are manufactured or milled in pursuance of a contract where the factory, central, or mill receives a share of the finished products, the tax on the share pertaining to the planter or owner of the raw materials shall be charged to the planter or owner and withheld by the proprietor or operator of the factory, central, or mill

and paid by him to the Collector of Internal Revenue.

"A proprietor or operator of a refined sugar factory shall be subject to the tax imposed by this section but shall be permitted to deduct from the actual selling price or market value of the refined sugar the total cost, as duly established, of the raw sugar upon which the tax under this section has previously been paid.

"Where articles are manufactured out of materials subject to tax under this section, the total cost, as duly established, of the said materials shall be deductible from the gross selling price or gross value in money of the manufactured articles. (As amended by sec. 1, Republic Act No. 261; sec. 1, Republic Act No. 822.)"

The question to be decided is whether or not as owner of a muscovado sugar mill petitioner is a proprietor or operator of a sugar central within the meaning of Section 189 of the Revenue Code.

It is to be noted that Section 189 imposes the 2% tax upon proprietors or operators of certain <u>factories</u> and <u>mills</u>; only in one case has the word "<u>central</u>" been used, and that is in the case of sugar centrals. That Congress used the term "sugar centrals" and not the more general terms "sugar mills" or "sugar factories" is an indication of the legislative purpose to tax only proprietors or operators of sugar centrals and not all proprietors or operators of sugar mills or sugar factories.

A sugar central has been defined as -

"A large mill that makes raw sugar out of cane brought from a wide surrounding territory." (Webster's New International Dictionary of the English Language, 2nd ed., unabridged.)

Counsel for petitioner have submitted the following definitions of "sugar central" and the distinctions between "sugar centrals" and sugar mills":

"A sugar central may be defined as the center in which people converge to bring their sugar cane for milling, wherein the sugar produced is obtained by passing the same through a centrifuge. It is a large mill that makes raw sugar out of cane brought from a wide surrounding territory (Webster's New International Dictionary of the English Language, 2nd Ed., Unabridged); a sugar mill which works for a wide territory (Webster's Collegiate Dictionary, 5th Ed.). It is likewise defined as a sugar mill grinding for a number of plantations (Practical Standard Dictionary of the English Language, Vizetelly, 1940 Ed.).

"A careful scrutiny of the foregoing definitions points out the two distinctive features of a sugar central, namely that it is devoted to the use of the public in general and that the process utilized therein to produce raw sugar is the so-called centrifugal process.

"A sugar central is supposed to serve an indiscriminate number of sugar cane planters with whom it may enter into milling contracts. It is said to be offering its facilities and services to the public in general so that it may not refuse, without any justifiable reason, to mill the cane of any planter who desires to avail himself of its services. It serves a wide surrounding territory. Hence, where any mill is devoted solely and exclusively to the private use of its owner, the same cannot be deemed to be a central

"The second characteristic of a sugar central is that the raw sugar is obtained therein by passing the boiled juice or syrup of the cane through a centrifuge, the latter being a rapidly rotating machine or a machine using centrifugal force for separating materials of different densities. The sugar produced is called centrifugal sugar and has a polarization of 97%.

"A sugar mill, on the other hand, is not necessarily a central. A mill has been defined as a machine for crushing or grinding vegetable substances to express the juice (Practical Standard Dictionary of the English Language, Vizetelly, 1940 Ed.). The concept of a mill, therefore, is broader than that of a sugar central. The same may or may not be operated to serve the needs of the public in general. The process utilized therein is not necessarily limited to the use of the centrifuge or the centrifugal process.

"By way of comparison, muscovado sugar is obtained by boiling the juice of the cane in open kettles; sugar molasses and impurities are not separated and because of the presence of these elements, the resulting polarization is only around 70%."

We are of the opinion that a "sugar central", as that term is used in Section 189, applies to "a large mill that makes sugar out of cane brought from a wide surrounding territory," or a sugar mill which manufactures sugar for a number of plantations. The term "sugar central" could not have been intended by Congress to refer to all sugar mills or sugar factories as contended by respondent. If respondent's interpretation is to be followed, even sugar mills run by animal power (trapiche) would be considered a sugar central. We do not think Congress ever intended to place owners of "trapiches" in the same category as operators of sugar centrals.

That sugar mills are not the same as sugar centrals may also be gleaned from Commonwealth Act No. 470 (Assessment Law). In prescribing the principle governing valuation and assessment of real property, Section 4 of said Act provides -

> "Machinery permanently used or installed in sugar centrals, mills, or refineries shall be separately assessed."

This clearly indicates that "sugar centrals" are not the same as "sugar mills" or "sugar refineries".

It is a rule well established in the interpretation of revenue laws that the provisions thereof can not be extended to matters not clearly embraced therein, and that in case of doubt, such statutes are to be construed most strongly against the government and in favor of the citizens. As Section 189 of the Revenue Code imposes the percentage tax prescribed therein on proprietors or operators of sugar centrals, the same can not be extended so as to apply to all owners of sugar mills irrespective of whether or not such mills are operated as sugar centrals.

> "It is a general rule in the interpretation of tax laws not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out, al-

> though standing on a close analogy. In every case of doubt, therefore, such statutes are to be construed most strongly against the government and in favor of the subjects or citizens, because burdens are not to be imposed, nor presumed to be imposed, beyond what statutes expressly and clearly import." (U. S. v. Wigglesworth, 2 Story 369; see also Luzon Stevedoring Co. v. Trinidad, 43 Phil. 803.)

It having been established that petitioner produced or manufactured in 1954 the muscovado sugar in question in his sugar mill, and that his sugar mill was not during the said period operated for the production or manufacture of sugar out of sugar cane belonging to other planters, we are of the opinion that he can not be considered a proprietor or operator of a sugar central. Accordingly, the assessment against him in the sum of ₱853.09 as percentage tax and surcharge is not in order. With respect to the alleged "compromise penalty", it is enough to call attention to our opinion in Soledad R. Briñas v. Collector of Internal Revenue, C. T. A. No. 16, Sept. 14, 1955 and University of Sto. Tomas v. Collector of Internal Revenue, C. T. A. No. 10, Sept. 10, 1956, wherein it was held that the Collector of Internal Revenue is without power to impose penalties in the guise of compromise without the consent of the taxpayer.

WHEREFORE, the decision appealed from is reversed, without pronouncement as to costs.

SO ORDERED.

Manila, January 17, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge