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COURT OF TAX APPEALS
MANILA

February 7, 1964

CENTRAL COOPERATIVE
EXCHANGE, INC.,
Petitioner,

-versus-   C.T.A. CASE No. 537

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

D E C I S I O N

This involves the claim of petitioner for the refund of the total amount of ₱1,004,834.11, as erroneous payment of compensating and advance sales taxes on certain articles allegedly imported by it.

The parties to this case entered into a partial stipulation of facts, as follows:

> "1. That the petitioner is a cooperative duly organized, existing and operating under the provisions of Act No. 3425, as amended, whose articles of incorporation appear on pages 19-26 of Volume III of the BIR records, and whose By-Laws are attached hereto as Annex 'G.'
>
> "2. That the members of the petitioner as a cooperative association are indicated in the list appearing on pages 29-35 and 36-42 of Volume III of the BIR records, among which members is the Agricultural Credit and Cooperative Financing Administration (ACCFA) as shown in the said list and also by the Certificates of Stocks copies of which are hereto attached as Annexes 'A,' 'A-1' to 'A-3.'
>
> "3. That the petitioner is claiming the refund of compensating and ad-

vance sales taxes on imported articles itemized in the worksheets contained in Volumes III and IV of the BIR records, indicated specifically as follows:

A. Summary Sheet on Ramie - pages 1-5, Volume III
B. " " " Fertilizer - page 1, Volume IV
C. " " " Seedlings - page 106, Volume IV
D. " " " Machinery and Equipment - page 260, Volume IV

"4. That the commercial documents and tax receipts corresponding to the imported ramie, fertilizer, seedlings, machinery and equipment mentioned in the preceding paragraph 3 are found in Volumes III and IV of the BIR records, indicated specifically as follows:

A. Re imported ramie - pages 68-864, Volume III; pages 417-439, Volume IV

B. Re imported fertilizer - pages 4-104, Volume IV

C. Re imported seedlings - pages 109-257, Volume IV page 67, Volume III

D. Re imported machinery and equipment - pages 262-416, Volume IV

"5. That there were paid on the importation of the aforementioned articles compensating and advance sales taxes the amounts of which are specified under Column No. 16 (Taxes Paid), Sub-columns Nos. 1 and 2, respectively, of the worksheets referred to in paragraph 3 hereof, under Official Receipts, the numbers of which are specified under Column 17 (Official Receipts), Sub-column No. 1 (Number) on the dates specified under Column No. 17, Sub-column No. 2 of the same worksheets.

"6. That the tax receipts evidencing payment of the compensating or advance sales taxes appearing in the working sheets referred to in paragraph 3 hereof are in the name of the petitioner, with the exception of those in the name of other entities such as the ACCFA or the NUGROCOMA (National Union Growers Cooperative Marketing Association) which is indicated in handwriting (red pencil) under Column 16, sub-column 1 or 2 of the aforementioned working sheets.

"7. That administrative proceedings in the BIR on petitioner's claim for refund comprehended by the present action are evidenced by the letters and other documents contained in Volumes I and II of the BIR records, containing 23 and 21 pages, respectively.

"8. That the petitioner claims to have actually paid the compensating and advance sales taxes aforementioned on those importations where the tax receipts are in the name of other entities as the ACCFA, and adduces as evidence thereof the documents, copies of which are hereto attached as Annexes 'B', 'B-1' to 'B-5-a', 'C', 'C-1' to 'C-12-b', 'D', 'D-1' to 'D-12-a', 'E', 'E-1' to 'E-121', and 'F', and the authenticity and identity of said documents are admitted by both parties. The specific items in the aforementioned working sheets to which the foregoing documents respectively refer is indicated, among others, in handwriting at the upper right hand corners thereof.

"9. That both parties admit the identity and authenticity of all documents contained in the BIR Records hereinbefore referred to."

Relying on the exempting provisions of Act No. 3425, as amended, petitioner filed with the respondent its claims for refund of the compensating and advance sales taxes paid on certain importations during the period from September 15, 1955, to March 19, 1958. Subsequently, petitioner requested for joint investigation of all its claims.

On May 30, 1958, petitioner filed with this Court a petition with a claim against the respondent in the amount of ₱789,051.55, and an amended and supplemental petition on February 25, 1959, with a total claim in the amount of ₱1,004,834.11.

On January 22, 1960, respondent partially granted petitioner's claim in the amount of ₱190,667.07.

The controversy in this case involves the taxes on the various importations in the name of ACCFA, which are as follows:

I. For Seedlings (Exh. "B"; Exhs. "7-A" and "7-B", p. 106, Vol. IV, BIR rec.)
1956 list - Items 4 to 6
1957 list - Items 1 and 2

II. For Fertilizers (Exh. "B-2"; Exhs. "6" and "6-A", p. 1, Vol. IV, BIR rec.)
1957 list - Items 1 to 10 and 12

III. For Machineries and Equipments (Exh. "B-1"; Exhs. "8-A", "8-B" and "8-C", p. 260, Vol. IV, BIR rec.)
1956 list - Item 9
1957 list - Items 1 to 10 and 12

IV. For Ramie Textiles (Exhs. "B-3-a" to "B-3-b"; Exhs. "1" to "5", pp. 1 to 5, Vol. III, BIR rec.)

All items.

The issues to be decided in this case narrow down to the following:

1. Whether or not petitioner is entitled to claim the refund of the compensating and advance sales taxes paid on seedlings, fertilizers, ramie textiles, machineries and equipments.

2. Whether or not the right to recover the amount claimed has already prescribed.

The resolution of the first issue hinges on the determination as to who is the importer of the goods in question. Petitioner contends that it is the importer. To bolster its stand, petitioner presented evidence showing that the cost of the goods and all other expenses incidental to the importations, such as freight charges, insurances, customs duties, and taxes were paid with its funds. On the other hand, respondent points to the shipping documents, e.g., the bills of lading and invoices, tax receipts, import licenses and letters of credit, which are in the name of ACCFA, as negating petitioner's claim that it is the importer. He maintains that the payment by petitioner of the costs and expenses of the importations does not make petitioner the importer.

From the evidence on record, we find that ACCFA is the importer. The shipping documents, such as bills of ladings and invoices, are clear and satisfactory indications that ACCFA, not petitioner, is the importer of the goods in question. The ACCFA's status as importer is buttressed by the considerations that the import licenses, letters of credit and tax receipts are in its name.

Moreover, the importations of seedlings and ramie textiles could be undertaken only by ACCFA as required by law and regulations.

While the evidence indicates that petitioner paid for the costs and expenses incidental to the importations, or the payments thereof were debited to its accounts, the same does not make petitioner the importer.

Finding that the articles in question were imported by ACCFA, petitioner is not entitled to claim the refund of the advance and sales taxes paid thereon, since ACCFA does not enjoy the tax exemption granted to associations organized under Act No. 3425, as amended.

Having disposed of the first issue adversely to petitioner, a determination of the second issue becomes academic.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the above-entitled case is hereby dismissed, without pronouncement as to costs.

SO ORDERED.

Manila, Philippines; February 7, 1964.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge