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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES,
Petitioner,

- versus - C.T.A. CASE NO. 1805

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

8/23/46

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D E C I S I O N

Petitioner sought a tax credit of ₱7,817.00 representing the compensating taxes which it paid on various dates in October, 1964 on its importation of machinery, equipment and/or spare parts.

Petitioner, a duly registered domestic corporation is engaged, among others, in the manufacture and/or production of logs and in manufacturing and processing of various forest products such as veneer, plywood, pulp and paper, and other forest products.

Pursuant to Republic Act No. 3127, otherwise known as the Basic Industries Act, petitioner applied on June 16, 1963 with the Board of Industries for exemption from duties and taxes on its importations of machinery, equipment and/or spare parts which are directly and actually needed in its logging and manufacturing operations.

On October 3, 1966, said application for tax exemption was approved by the Board of Industries and a certificate of exemption (BI Certificate No. 210) was granted to petitioner entitling it to exemption, among others, from the payment of compensating tax on its importation of machinery, spare parts and/or equipment directly needed and will be used in the manufacture and/or production of "Logs, Lumber, Veneer, Plywood, Pulp and Paper and other Forest Products." Under Section 7 of the said law, the tax-exemption retroacts as of the date of the filing of the application.

Pending approval of petitioner's application for tax exemption, it imported various machineries, equipment and/or spare parts. Some of these articles, arrived on board the SS Oregon in August, 1964 and on which petitioner paid compensating taxes amounting to ₱7,817.00, the breakdown of which are as follows:

(1) Air Trac Drill Parts, covered by Import Entry Dec. No. B-90(64) and paid under O.R. No. C-0794976 dated October 7, 1964 in the amount of ₱1,272.00 (Exhs. C-3 & D-8, pp. 54 & 65, CTA record pp. 12 & 19, t.s.n. Dec. 10, 1974.)

(2) Three (3) Crates Diesel Engine Parts and 3 Fuller transmission parts Model 5 F 1220,

covered by Import Entry Dec. No. B090(64) and paid under O.R. No. C-0794995 dated Oct. 17, 1964 in the amount of ₱1,477.00 (Exhs. C-4, D-7 & D to D-6, p. 55, 64, 58-63 CTA record; pp. 12, 17-18, t.s.n. Dec. 10, 1974.)

(3) Three (3) units, GM Diesel Engine Model 6171 E, covered by Import Entry Dec. No. B-88(64) and paid under O.R. No. C-0794990 dated Oct. 16, 1964 in the amount of ₱4,632.00 (Exhs. C-5, E-8 & E to E-7, pp. 55, 66-75, CTA record; pp. 12, 19-22, t.s.n. Dec. 10, 1974) and

(4) Three (3) No. 9179204 Radiator Assembly for Euclid Model 80 FD Dump Truck, covered by Import Entry Dec. No. B-82(64) and paid under O.R. No. C-0795005 dated Oct. 21, 1964 in the amount of ₱436.00 (Exhs. C-6, F-7 & F to F-6, pp. 55-83, CTA record; pp. 13, 22-24, t.s.n. Dec. 10, 1974.)

The imported articles above-mentioned were badly needed in petitioner's operations. As its application for tax-exemption was then being processed by the Board of Industries, petitioner had to pay the compensating taxes on said articles to secure their release from custom's custody. (Exhs. D-7, D-8, E-8 & F-7, pp. 64, 65, 75 & 83, CTA record; See also p. 25 t.s.n. Dec. 10, 1974.

On October 6, 1966, within the two-year period provided by Section 309 of the National Internal Revenue Code, petitioner filed with respondent a claim for tax credit of the compensating taxes paid on the imported machinery, equipment and/

or spare parts. On the same date petitioner instituted an appeal with this Court seeking tax credit of erroneously paid compensating taxes amounting to ₱7,817.00.

During the pendency of this appeal, respondent denied petitioner's claim for tax credit on the ground that it has not complied with the prerequisite of directly using the imported articles in the manufacture of paper and pulp since the imported articles were actually used in the logging operation of petitioner.

This case was submitted for decision based on the evidence presented by petitioner and the BIR records. Respondent, however, submitted no evidence to rebut petitioner's evidence.

The issues to be resolved are the following, to wit:

> 1. Whether or not under Republic Act No. 3127, petitioner is exempt from the compensating tax on its imported machinery, equipment and/or spare parts; and
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> 2. Whether or not the amount refundable to the petitioner is subject to payment of legal interest.

FIRST ISSUE:

Petitioner contends that since the imported machinery, equipment and/or spare parts were directly, exclusively, and actually used in their logging operations, as admitted by the Revenue District Officer of Surigao del Sur (p. 67, BIR record), the requisites for their exemption prescribed by Republic Act No. 3127 have, therefore, been satisfied and complied with.

Petitioner has proven by competent evidence that, sometime in August 1964, it imported machinery, equipment and/or spare parts which importation was admitted by Revenue Examiner Bienesto Vitug in his memorandum to the Regional Director dated August 5, 1968; that petitioner paid the total amount of ₱7,817.00 as compensating taxes on said importation; that the imported machinery, equipment and/or spare parts were directly and actually needed and were used exclusively in its logging operations which fact was admitted by Nerio Corvera, Revenue District Officer of Surigao del Sur in his indorsement dated April 22, 1970 (p. 67, Vol. 11, BIR record); and that on October 3, 1966, petitioner was granted by the Board of Industries exemption, among others, from the payment of compensating tax pursuant to Republic Act No. 3127. Consequently, we hold that petitioner is entitled to a tax credit of compensating taxes in the amount of ₱7,817.00.

SECOND ISSUE:

Petitioner maintains that it is entitled to interest on the amount of ₱7,817.00 as compensating tax sought to be credited, that is, from October 6, 1966 when the claim for tax credit was filed with respondent, until the date the same is fully credited since its collection was attended with arbitrariness. We find petitioner's allegation untenable.

The compensating tax paid by petitioner on the imported articles was not arbitrarily assessed or collected. Petitioner was not exempt from the payment of compensating tax at the time the imported machineries were released from customs custody because petitioner's application for tax exemption was still pending before the Board of Industries.

It is settled doctine in taxation that, in the absence of arbitrariness in the collection or assessment of the tax, the government cannot be held liable for the payment of interest claimed by the taxpayer. (Coll. vs. St. Paul's Hospital of Iloilo, G.R. No. L-12127, May 25, 1959; Gibbs vs. Coll., G.R. No. L-14166 & L-14320, April 28, 1962; Coll. vs. Binalbagan Estate, Inc., G.R. L-12752, Jan. 30, 1965.) [Colon, Court of Tax Appeals Digest of Internal Revenue Tax Cases, p. 624.]

WHEREFORE, respondent Commissioner of Internal Revenue is hereby ordered to grant petitioner, Paper Industries Corporation of the Philippines, a tax credit in the amount of ₱7,817.00 only. No costs.

SO ORDERED.

Quezon City, August 23, 1976.

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Presiding Judge

WE CONCUR:

Amante Filler
AMANTE FILLER
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge