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Republic of the Philippines
COURT OF TAX APPEALS
MANILA

ESSO STANDARD EASTERN, INC.,
Petitioner,

August 15, 1963

- versus -

C.T.A
CASE NO. 1310

ACTING COMMISSIONER OF CUSTOMS,
Respondent.

Affirmed in G.R. No. L-21841, Oct. 28, 1966
18 SCRA 488

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D E C I S I O N

This is an appeal from the decision of the respondent affirming that of the Collector of Customs of Manila holding petitioner liable for the payment of the special import tax on three boxes Pump Parts imported by it sometime in 1956. The facts of the case are stated in the petition for review, as follows:

> "2. On July 29, 1956, petitioner, then called Standard Vacuum Oil Co., imported from abroad on board the S/S 'Pioneer Muse' with Registry No. 938, the following articles covered by Bill of Lading No. 161, dated July 11, 1956, and declared under Entry No. E-61319, series of 1956:

One case Bronze Valves ------	$ 291.82
Three boxes Pump Parts --	2,120.39
Total ------	$2,412.21

> "3. Upon arrival of the imported articles in Manila, the Collector of Customs of Manila assessed and collected from petitioner as special import tax thereon the sum of ₱838.20, which sum was paid by petitioner as evidenced by Official Receipt No. 48828, dated September 18, 1956, and liquidated under Voucher No. 34096, dated May 2, 1957.

> "4. On September 24, 1956, peti-

tioner filed a protest (Manila Protest No. 294) with the Collector of Customs of Manila against the assessment and collection of the sum of ₱838.20 on the ground that the imported articles consist of equipment and spare parts for its own exclusive use and therefore were exempt from special import tax under Section 6 of Republic Act No. 1394, which exempts 'machinery, equipment, accessories and spare parts, for the use of industries' from payment of special import tax.

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"6. On March 9, 1959, the Collector of Customs of Manila rendered a decision (Manila Protest No. 294) denying petitioner's protest for lack of merit, which decision was appealed by petitioner to respondent within the time prescribed by law.

"7. On December 5, 1962, respondent rendered a decision (Customs Case No. 32) affirming the decision of the Collector of Customs of Manila, which decision was received by petitioner on December 10, 1962." (Pp. 1-2, Petition for Review.)

The protest as regards the special import tax on the Bronze Valves was finally sustained so that the sole issue raised in this appeal relates to the special import tax on the Pump Parts in the sum of ₱722.84. (See Partial Stipulation of Facts, June 6, 1963.)

Petitioner contends that it is not subject to the special import tax on the said Pump Parts on the ground that they were imported for use, and are actually used, in its industry. On the other hand, respondent contends that petitioner is not entitled to exemption because the "business of the appellant in owning and leasing gasoline stations with pumps dispensing gasoline by retail to car owners, cannot be considered as an industry." To quote from the decision of respondent:

> "In as much as, as stated above, the appellant company was engaged in the industry of manufacture of lubricating oil, grease and tin containers, there is no reason to state that the three (3) boxes of gasoline pump parts in question would be essential to this kind of industry. And since the appellant was not engaged in any kind of industry where the gasoline pump parts would be essential, it cannot truthfully be asserted that these articles are entitled to exemption from special import tax. The business of the appellant in owning and leasing gasoline stations with pumps dispensing gasoline by retail to car owners, cannot be considered as an industry. If at all, this kind of business is in the nature of marketing gasoline which it did not produce or manufacture as an industry. Consequently, the Standard Vacuum Oil Company is not entitled to exemption from special import tax under Republic Act No. 1394 on its importation of three (3) boxes of gasoline pump parts."

Section 1 of Republic Act No. 1394 imposes a special import tax on all goods, articles or products imported or brought into the Philippines during the period from 1956 to 1965, at rates starting from 17% in 1956 and gradually diminishing to 1-7/10% in 1965. Section 4 of said Act provides that said tax shall be paid by the importer prior to the release of the imported goods from customs custody. And Section 6 of the same Act, in so far as material to the instant case, provides that the special import tax shall not apply to "machinery, equipment, accessories, and spare parts, for the use of industries."

To be exempt from the special import tax, the imported machinery, equipment, accessories and spare parts must be used by the importer in its industry. The records of this case show that petitioner owns gasoline stations which are leased to gasoline dealers; that petitioner sells gasoline to these gasoline dealers; and that the Pump Parts imported by petitioner in 1956 were intended, and are actually used, by gasoline dealers in the sale of gasoline to consumers. In other words, the Pump Parts are used in the sale at retail of gasoline not by petitioner but by the lessees of gasoline stations. It follows that petitioner, as the importer of said Pump Parts, is not entitled to exemption from the special import tax.

IN VIEW OF THE FOREGOING, the decision appealed from is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, August 15, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge